

# From Freedom Charter to Cautious Land Reform - The Politics of Land in South Africa

Ward ANSEEUW & Chris ALDEN

Discussion paper  
No. 2011/1  
October 2011



**POSTGRADUATE SCHOOL OF AGRICULTURE AND RURAL DEVELOPMENT**

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By

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Published by the Postgraduate School of Agriculture and Rural Development,  
University of Pretoria, Pretoria 0002, South Africa.

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[www.up.ac.za/academic/agrirural](http://www.up.ac.za/academic/agrirural)

ISBN: 978-0-620-40776-2

Publication date: October 2011

Cover design: University of Pretoria

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### List of abbreviations and acronyms

ANC	African National Congress
ANCYL	African National Congress Youth League
AZAPO	Azanian People's Organisation
CLaRA	Communal Land Rights Act
CLRB	Communal Land Rights Bill
CODESA	Convention for a Democratic South Africa
Contralesa	Congress of Traditional Leaders of South Africa
COSATU	Congress of South African Trade Unions
DA	Democratic Alliance
EPG	Commonwealth's Eminent Persons Group
ESTA	Extension of Security of Tenure Act
FOSATU	Federation of South African Trade Unions
GDP	Gross Domestic Product
GEAR	Growth, Employment and Redistribution
GNU	Government of National Unity (
ICU	International Commercial Union
IFP	Inkatha Freedom Party
LAPC	Land and Agricultural Policy Centre
LPM	Landless People's Movement
LRAD	Land Redistribution for Agricultural Development
MDC	Movement for Democratic Change
MK	Umkhonto we Sizwe
MP	Member of Parliament
NAFU	National African Farmers Union
NEPAD	New Economic Partnership for African Development
NGO	Non Governmental Organisation
NLC	National Land Committee
NP	National Party

PAC	Pan Africanist Congress
PEFOL	Panel of Experts on Foreign Ownership of Land
PLAAS	Programme for Land and Agrarian Studies
RDP	Reconstruction and Development Programme
SABC	South African Broadcasting Corporation
SACP	South African Communist Party
SADF	South African Defence Force
SLAG	Settlement/Land Acquisition Grants
UDF	United Democratic Front
UN	United Nations
WSSD	World Summit for Sustainable Development
ZANU-PF	Zimbabwe African National Union – Patriotic Front

## Foreword

This discussion paper is part of a broader research project on the implications of the Zimbabwean crisis on the domestic policies in the region. Funded by the French Institute of South Africa, it was finalized in 2007. This paper is an updated version.

The present paper does not necessarily reflect the views and opinions of the authors' institutions. The authors bear the final responsibility for the opinions and conclusions presented in this paper.

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Together they have recently published:

- \* The Struggle over Land in Africa – Conflicts, politics and change (eds.), 2010, Cape Town, HSRC Press.
- \* Land, Liberation and Compromise in Southern Africa, 2009, London, Palgrave-Macmillan.

## Abstract

South Africa's celebrated transformation from apartheid to bastion of non-racial democracy has earned it an international reputation as a site of political plurality and market stability, underwritten by a liberal constitution. And yet, with the most biased land distribution in the region, South Africa is arguably the country with the most pressing land question and in many ways the one which is most intractable.

Land reform was one of the main components of the ANC's agenda during its ascension to power. By stating that 'Restrictions of land ownership on a racial basis shall be ended, and all the land re-divided amongst those who work it to banish famine and land hunger', the Freedom charter presented land reform not only as a decisive element of South Africa's ideological transition, it is also seen as one of the conditions of political, economical and social stabilisation of the country. These motivations have however faded. Despite the high profile officially accorded to land and agrarian reforms by the 'new' South African government, little has been done to achieve the stated objectives. Not only was a less-extreme 'willing seller – willing buyer' land reform approach adopted, an overall lack of attention to the countries' land question(s) is patent. The latter did not manifest as a political challenge for the new government until the outbreak of violence in Zimbabwe. These events, coupled to the growing discontent amongst the growing ranks of unemployed and rural poor, pinpoint the ANC's policy lassitude and bureaucratic disarray, which could give way to a more forthright commitment to agrarian reform.

This discussion paper analyses the politics of land in South Africa. It examines how South Africa's present leaders, who were claiming for the nationalization of land in the Freedom Charter during the liberation struggle, are presently supporting a cautious approach regarding land reform. It does so through a historical and regional political economy lens, enabling the analysis to scrutinize South Africa's contradictory position with regards to Zimbabwe within a framework of failed land reform and potential destabilizing popular discontentment.

The intimate links between the established political economy of settler colonialism, transition to democracy and the concurrent fashioning of a liberal constitutional regime, all of which hold tremendously important implications for attempts to embark on agrarian reform, provides a framework for understanding the volatility inherent in the politics of land and, with that, the political structure of post-apartheid South Africa. The power of narratives and the changing discourses regarding South Africa's land issue – drawn from the settler state era, the liberation struggle itself and implicit in neoliberal policies pursued after democracy (and the results related to the latter) – shape the preferences and perspectives among elites, social groups and the wider population regarding land reform in the country.





## **From Freedom Charter to Cautious Land Reform - The Politics of Land in South Africa**

‘The constitutional entrenchment of a strictly free market-based economy implied by the willing seller/willing buyer formula could be used to challenge any attempts to address the inequalities imposed by apartheid, and would, as in Zimbabwe, impose severe limitations on land reform.’

Helena Dolny and Heinz Klug, 1992.

‘The pace of (land) restitution has been negatively influenced by the “willing buyer/willing seller” principle.’

Deputy President Phumzile Mlambo-Ngcuka, 2005.

South Africa’s celebrated transformation from apartheid to bastion of non-racial democracy has earned it an international reputation as a site of political plurality and market stability, underwritten by a liberal constitution. And yet, with the most biased land distribution in the region, South Africa is arguably the country with the most pressing land question and in many ways the one which is most intractable. The African National Congress’ embrace of neo-liberalism, coupled to the considerable problems of political consolidation within the framework of the ‘grand compromise’ negotiated between itself and the National Party, pre-occupied the new government in its initial term in office. The lack of attention given to land issues in the rural areas, however, did not manifest as a political challenge for the new government until the outbreak of violence in Zimbabwe. The fact that the economic gains of liberation had mainly benefited a black urban elite disguised the growing discontent amongst the growing ranks of unemployed and rural poor.

The dilemma facing the post-apartheid government in South Africa, like that of other independent countries in Southern Africa, has been the unexpected surge of local publicity, organized protest and even land occupations across the country, following in the wake of the Zimbabwe crisis. These events exposed to the public what critics had been aware of for sometime: that the African National Congress’s (ANC) established market-led approach to agrarian reform was, even under the best of circumstances, an inadequate instrument for attaining rapid redistribution of white-owned commercial agricultural land into the hands of the dispossessed black majority. Confronted by these heightened pressures, the ANC’s policy lassitude and bureaucratic disarray seemed to give way to a more forthright commitment to agrarian reform. At the same time, there

were signs that the fundamental aims of land policy, which, in conformity with the neo-liberal precepts that have guided South African policy since 1996, remained focused on the commercialization of distributive measures in the agricultural sector. Moreover, the government's impulse to use the land issue as an electoral device, even if it ran counter to ANC party doctrine, raised questions as to the depth of its commitment to substantive agrarian reform. Finally, for Thabo Mbeki in particular, whose promotion of a transformationist foreign policy in Africa was a key personal ambition, the situation in Zimbabwe raised unwanted questions on South Africa's own commitment to liberation era goals.

This discussion paper analyses the politics of land in South Africa, with a particular focus on the impact of the Zimbabwean crisis on its domestic land policies. It examines how South Africa's present leaders, who were claiming for the nationalization of land in the Freedom Charter during the liberation struggle, are presently supporting a 'willing buyer-willing seller' approach. It does so through a historical political economy lens, enabling the analysis to scrutinize South Africa's contradictory position with regards to Zimbabwe within a framework of failed land reform and potential destabilizing popular discontentment.

## **I. The Political Economy of South Africa**

South Africa's history of European contact with the indigenous population, starting with the establishment of a refreshment station at Cape point in 1652 by the Dutch East India Company, is one of conquest, subjugation and expropriation. The gradual encroachment of the European settlement on Khoisan land, coupled with the introduction of slaves from Batavia and miscegenation between whites and black, gave rise to a society structured along fault lines of race and power (Davenport and Saunders, 2000). The bulk of the Dutch settlers, seeking to escape the Company's rule, adopted many of the pastoral practices of the black population to their paternalistic society which typically included a bevy of mixed race (or 'coloured') servants living alongside white families (Katzen, 1969). A pattern of conflict and accommodation between the Boers (later referred to as Afrikaners) and the peoples east of the Cape Colony came to characterize interaction throughout the 18<sup>th</sup> century as they competed over grazing for cattle and hunting rights (Wilson, 1969).

With the assertion of British suzerainty over the Dutch possessions in the early 19<sup>th</sup> century, a new dynamic was introduced into the region. British colonial rule in the Cape reflected the growing liberalist tendencies of the empire, a reaction in part to the loss of the American colonies, and sought to govern on the basis of a reformist credo. The anti-slavery movement in Westminster, spearheaded by William Wilberforce and other non-conformists, was a key influence during this period and resulted in a decision to end slavery throughout the empire in 1834 (Hattersley, 1963; Davenport, 1969). The resultant discontent amongst Afrikaners spurred a wave of migration to the east into the territorial domain of the Xhosa and beyond that, into Natal where the Basotho and Zulu peoples

were dominant. Fierce African resistance amongst the Zulu, coupled to the arrival of British settlers to claim the area, ultimately drove these '*voortrekkers*' further north where they established two independent Boer Republics beyond the reach or interests of foreign powers during the 1850s. These Boer societies were thus able to carry on their relatively self-sufficient pastoral-agricultural practices on dispossessed land based on a combination of aggressive military action and working alliances with neighbouring African peoples. Large family farms were established and unskilled farm labour was increasingly supplemented by local African peoples who lived on white owned land (sometimes the very land they themselves had once controlled) as tenants.

The discovery of significant deposits of gold in the Transvaal in 1886 which followed the findings of diamonds in the Northern Cape, transformed the Boer republic from an economic backwater to a destination for foreign investment, speculation and migration. British capital, bolstered by a growing liberal-imperialist movement led by mining magnate Cecil Rhodes and the Colonial Secretary Joseph Chamberlain, used aggressive diplomacy to set the stage for a British takeover of the Boer territories that resulted in a bloody conflict from 1899-1902 (Parkenham, 1979). Following the end of the Anglo-Boer war, the Union of South Africa was formed in 1910 and, with that, a series of seminal legislative acts that set the stage for the foundations of modern South African political economy and society. For its leaders like Jan Smuts and Alfred Milner, this was to serve as an important source of political reconciliation between the estranged white communities, while for the black population it entrenched systemic discrimination and economic hardship (Davenport and Saunders, 2000).

Land ownership and the attendant concerns of agriculture formed one of the pillars of the new Union of South Africa. Building upon the conquests of the previous century, the parliament passed legislation, the Natives Land Acts of 1913 and 1936, which formalized racially designated ownership of land. These acts originally allotted 8% (to be later extended to 13% in 1936) of South Africa's territory to blacks of African origin who represented at the time about three fifths of the population.<sup>1</sup> Land rights for the 'coloured' and Indian minorities were primarily governed by provincial legislation and ranged from partially restrictive in the Cape and Natal to wholly racist in the Orange Free State. This legislation limited the black population to a patchwork of tribal reserves, where land tenure was insecure and where farming practices were mainly communal. Furthermore, other measures – mainly labour relations regulations - restrained land tenancy or sharecropping possibilities for the black and 'coloured' populations on land owned by white farmers. Individual ownership of farms within white areas and communal governed reserves therefore became impossible after 1913, with the exception of a few anomalous 'black spots' where private ownership continued. Ironically, much of the thrust of South African government action throughout this period was aimed at managing the ever-present tensions within officially designated white areas, where farmers relied upon black

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<sup>1</sup> As population growth patterns amongst white and black South Africans changed throughout the course of the 20<sup>th</sup> century, the balance of land to population group became more skewed.

tenant labour while at the same time sought to reduce the presence of black tenants on white farms.

This suffocation of the commercial farming activities of the black population was coupled to a policy which restricted the latter to the practice of agricultural activities in the tribal reserves (which later evolved into the 'bantustans' system) (Bundy, 1979). This situation was exacerbated during the apartheid years when the government pursued its policy of resettling 'surplus' blacks into the reserves, which further reduced any prospect of sound agricultural development in these increasingly over-crowded territories. Government-led expropriations and displacements of blacks in the name of separate development continued into the mid 1980s (Lodge, 2002). While these measures had as their overriding objective the acquisition of the land by the white population, they also aimed at eliminating nascent black commercial farmers and 'retribalising' rural life (Van Onselen, 1996). The result was the subordination of the African population, which had become a simple production factor for the white industry and its migrant labour system from the tribal reserves. These spatial segregation measures have engendered extreme biases concerning land distribution to this day, resulting in, due to their combination with commercial farming limitations for black populations, important production and wealth inequalities between white and black farmers.

At the same time, South Africa was embarking on a rapid industrialization driven by the technological, capital and subsidiary industrial needs of the mining industry based in the Witwatersrand area. The expanding labour requirements of the mines could not keep up with the white trade union's racially prescribed supply and attempts were made by industry to train black labour up from the ranks of the unskilled miners. This was despite the passage of the Native Labour Regulation Act (1911) which forbid black labourers to participate in trade union activities.<sup>2</sup> The outcry, which culminated in a minor revolt by the white miners on the Witwatersrand in 1922, sealed the fate of black labour as subordinate to white workers in pay and status, for well over a generation (Davenport and Saunders, 2000). The Industrial Conciliation Act (1924) formalised racially defined wages, on the basis of providing 'civilised wages' for whites, while the Mines and Works Amendment Act (1926) placed a 'colour bar' on skilled professions. The notorious 'Masters and Servants Act', which gave white employers extra-ordinary rights over their black workers, governed relations in the home and small businesses.

Finally, social legislation explicitly restricting contact between 'Europeans' and blacks, was coupled to *de facto* segregation in many residential and business areas.<sup>3</sup> This was despite the fact that Mahatma Gandhi and the Transvaal Indian Congress had won concessions, such as the right to domicile, from the Union government in 1914 after more than a decade of ardent protest and petitioning campaigns aimed at the India Office and Colonial Office in London (Swan, 1985). These gains, which arguably could have formed

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<sup>2</sup> This followed the Industrial Disputes Prevention Act (1909) which forbade black Africans to participate in the bargaining process.

<sup>3</sup> The passage of the Natives (Urban Areas) Act (1923) introduced formal restrictions on black ownership and residency in certain urban areas.

the basis for non-racially defined social legislation in the Union and which Smuts in particular seemed to resent, had been largely overturned by 1920.

### ***The rise of black resistance and Afrikaner nationalism***

Though black resistance to subjugation had been a feature of the colonial period, it was to assume a different character after the establishment of the Union in 1910. The ANC was created in 1912 by a group of missionary educated blacks, in reaction to the pending legislation appropriating three quarters of the land for whites only. It tried to ameliorate the worst features of colonialism through political activism. Although largely unable to stop the tide of white supremacist policies through its petitions and campaigns, the ANC nonetheless became an important political actor that attracted leading black politicians to its ranks. Concurrent to this was the rise of predominantly black trade unions like the International Commercial Union (ICU) which was aligned to the ANC and was able to organize in both the urban and rural areas. A series of protests organized by the ICU in the Eastern Cape in the late 1920s against land expropriation and onerous labour requirements for black tenants won widespread support (Davenport and Saunders, 2000). Internal weaknesses and racially-inspired divisions within South Africa's labour movement contributed to its demise by 1933. By the 1940s, the ANC youth league led by Oliver Tambo and Nelson Mandela began articulating a more strident form of political action in the face of the installation of the National Party's 'apartheid' legislation. An alliance, called the Congress of Democrats, produced the seminal document of the liberation struggle, the Freedom Charter, which presented the aims of the anti-apartheid movement. On the land issue it stated: 'Restrictions of land ownership on a racial basis shall be ended, and all the land re-divided amongst those who work it to banish famine and land hunger.' Robert Sobukwe, impatient with the ANC's reformism and links to the South African Communist Party (SACP) as well as other white liberal organizations, broke away to found the Pan Africanist Congress (PAC) in 1959.

At the same time that black elites founded the ANC, Afrikaner nationalism, aimed at restoring Afrikaner power in the face of British hegemony, created the National Party in 1914. Composed of ministers, teachers and railway officials, the National Party was dedicated to promoting the interests of the Afrikaner and it was on this basis that DF Malan led a breakaway faction in 1934. By 1948, this 'purified' National Party had won power from Smuts, and Malan and his successor, Hendrik Verwoerd, lost no time in instituting their platform of 'apartheid' which involved national codification of segregation along strict racial lines. The promulgation of the Mixed Marriages Act (1949), the Population Registration Act (1950), the Group Areas Act (1950), the Separate Amenities Act (1953) and the Bantu Education Act (1953) followed in quick succession. With Verwoerd's ascendancy to the premiership, the South African government began its notorious 'bantustan' policy, which was the consolidation of tribal reserves into a series of nominally self-governing or independent states that involved more forced resettlement of blacks. Underlying the entire system were 'pass laws' which regulated movement for blacks in the officially designated white areas of the country.

The Sharpeville massacre of March 1960, during which police killed dozens of PAC supporters protesting the pass laws, introduced a new militancy into the black resistance (Lodge, 1983). The ANC's military wing, Umkhonto we Sizwe (MK), received training and support from the SACP and embarked on a short-lived sabotage campaign in 1962. Though both the ANC and PAC sought to mobilize support by general appeals, it was the PAC, with its black nationalist outlook and its support base in Pondoland, that used the land issue to greater effect, at least in the initial phase of its armed struggle led by the shadowy 'Poqo' (Lodge, 1983). The reaction of the National Party government was immediate and harsh. Verwoerd declared that Afrikaners must 'stand like walls of granite because the survival of the nation is at stake' and went on to use emergency powers and drastic policing action to round up black nationalists (Barber and Barratt, 1990). By 1964 the armed struggle was broken at home and a trickle of black and white exiles had fled abroad. Failed attempts by MK to launch infiltration missions followed and, in the wake of growing economic prosperity, it seemed that apartheid South Africa was secure.

### ***Revolution and the search for reform***

Despite its successes in thwarting an overt revolution, it was clear to leading Afrikaner politicians that the settler state had gained only a temporary reprieve. On the one hand, discontent and violence accompanied the forced removal of thousands of blacks from their homes and land across the country; on the other hand, the growing demands of the economy increased pressure to open up the skilled labour and consumer possibilities of the black majority. The urgency to find an internationally acceptable basis for political reform within South Africa increased with the collapse of the Portuguese empire in 1974 and, six years later, the advent of independence in Zimbabwe. Defence Minister PW Botha came to power in 1978 and sought to mobilize South African society to counter what he saw as a communist-inspired 'total onslaught' against the country. Part of his programme was to support counter-insurgency groups in neighbouring countries which supported the South African liberation movements and embark on selective destabilization campaigns, either through direct military strikes by the South African Defence Force (SADF) or through application of economic sanctions.

Domestically, Botha followed a classic counter-revolutionary strategy and introduced reforms to the apartheid system that he felt would address the social, economic and – to an extent – political concerns of the other population groups. In fact, as early as the late 1960s the search within '*verligte*' circles of the National Party began for an acceptable formula for managing the changes to accommodate the aspirations of the 'coloured' and Indian minorities (black African aspirations were still held to be best managed through the 'bantustan' system). To this end, the Tricameral parliament was launched in 1983. It gave proportional representation along racial lines to whites, 'coloureds' and Indians (thus guaranteeing that whites retained political control), resulting in limited support in the latter two communities. Mangosutho Buthelezi's Zulu-dominated Inkatha movement, which was subsequently shown to have close ties with the South African security forces, was seen as a potential partner in any prospective internal solution. Botha's visit to

Europe in June 1984 signalled for him the success of apartheid reform; however, the outbreak of a new cycle of township-based violence in September the same year, whose aim was to resist the introduction of new local authorities, marked the demise of this reformist agenda.

Led by the United Democratic Front (UDF), which openly professed sympathy with the ANC, the mass movement against apartheid was periodically joined by the newly formed black trade union, Fosatu (Federation of South African Trade Unions - later Cosatu (Federation of South African Trade Unions)) in organizing large public gatherings against South African government actions (Alden, 1996). At the same time, MK operatives began to infiltrate the country with some success and the sporadic protests of the recent past became sustained acts of violent rebellion. Botha introduced a state of emergency in 1985 and brought in the SADF, alongside the police, to quell the uprising. Rising concern within the West, as well as liberal and business circles in South Africa, inspired the launching of an internationally supported negotiation team.<sup>4</sup> The Commonwealth's Eminent Persons Group (EPG) mission in 1986 hoped to lay the basis for face-to-face negotiations between Pretoria and the ANC that would avert further violence but its efforts were deliberately scuppered by the SADF raid against ANC offices in Botswana. With international sanctions being imposed against the apartheid state and Botha struggling to convince credible black leaders to participate in his increasingly inchoate 'internal solution', the pathway between violent revolution and co-optive reform appeared difficult to trend.

## **II. The Transition to Majority Rule**

South Africa's transition to majority rule, like that of the conflict-torn settler states of Zimbabwe and Namibia, was lengthy, complicated and fraught with uncertainty. The stalemate that ensued after the failed EPG mission produced a host of clandestine meetings between the ANC and the South African government as well as public gatherings with prominent Afrikaners and white businessmen (Sparks, 1995). For an increasingly divided National Party elite, the debate had now shifted from how to win domestic and international support for political reform to apartheid without losing white dominance, to finding an acceptable formula that protected property rights and group rights in areas such as education (Alden, 1996). For the ANC, feeling the effects of the dwindling of traditional sources of support in the wake of the thawing of the Cold War as well as a growing fear that it might be frozen out of a future settlement, it placed its hopes on achieving majority rule through negotiations (Ellis and Sechaba, 1992). After lengthy discussions, the ANC produced the Harare Declaration in August 1989 which laid out its terms for a negotiated settlement: the establishment of a non-racial, unitary and democratic state based on the principle of universal franchise, a mixed economy, the protection of worker's rights, a programme of land reform, state institutions committed to eliminating apartheid legacies and a non-aligned foreign policy (Sisk, 1995).

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<sup>4</sup> On business involvement in policy making, see Lee and Buntmna (1989).



As the secret negotiations gave way to more public talks, a surprising degree of common purpose was displayed by the liberation movement and the National Party (NP), with both evincing an ambivalence regarding the international community's role in the final phase of the country's political transition. Perhaps this was borne of the recognition that both parties were dependent to a greater degree than they wished on international support for achieving their desired political outcome. This attitude resulted in a unique 'internal solution' that, unlike those false starts in Zimbabwe and Namibia, involved all relevant local political actors in the negotiation of the particulars of the transitional constitution (see below). At the same time, the importance of playing the 'international card' during the transition and winning international legitimacy for the final shape of transitional political arrangements was always seen as a vital part of the process by both the National Party and the ANC.

In the case of the National Party, this sense of ambivalence was rooted in a significant strand of outright hostility to an international community that had never fully, in their view, understood or appreciated the peculiar circumstances of Afrikaners as outposts of 'Christian civilisation' in a particularly hostile environment (Moodie, 1975). This parochial perception was given deeper political meaning with the pressure experienced from Western governments. The latter manifested itself in the British Prime Minister Harold Macmillan's 'winds of change' speech before the parliament in Cape Town in 1960 and eventually culminated in South Africa's voluntary withdrawal from the Commonwealth in 1961. Verwoerd expressed the Afrikaner population's staunch determination to pursue apartheid irrespective of international criticism. More than twenty years later, PW Botha, once junior minister in the Verwoerd cabinet, articulated similar sentiments when standing down the international outcry over South African military action in the wake of the EPG mission. However, by this time, opinion amongst the white population had begun to shift, reflecting in part demographic changes to an increasingly prosperous and worldly Afrikaner middle class who no longer felt the exclusive pull of narrow nationalism (SAIIA, 1980). This change was significant enough for FW de Klerk to use as a basis for negotiating an end to apartheid without losing the bulk of the National Party constituency (or at least replacing losses to the Afrikaner rightwing with votes from the more liberal English-speaking communities), as was demonstrated by the two thirds majority given by the white electorate to a referendum on ending apartheid, held on 17 March 1992.

For the ANC and its followers, the international community was for the most part a lifeline for survival in the many decades of exile (Thomas, 1990). International criticism of apartheid, either through international organisations like the UN and the Commonwealth or through bilateral relations with non-Western countries, was crucial to sustaining the liberation struggle. The armed struggle was always seen by senior figures in the ANC as a means for what would ultimately be a diplomatic end to apartheid. Even at the height of the township rebellion in the mid 1980s, the ANC retained its commitment to negotiations – though many of its followers on the ground may have felt otherwise – and produced public statements reflecting this outlook time and again (Sisk,

1995). Moreover, financial support from the UN and Scandinavian countries in particular was vital to the maintenance of ANC representative offices in New York. African countries, especially Zambia, Nigeria, Tanzania, Mozambique and Angola, were sites of political refuge and, in some cases military training camps for the military wing Umkhonto we Sizwe. At the same time, initial hopes of a swift achievement of its objectives had to be tempered by the disappointment with the limited measures invoked by the international community after Sharpeville and the Rivonia trials in the early 1960s or the student appraisals in the 1970s (Thomas, 1990). Significantly, Thabo Mbeki, the ANC's international officer, declared that the liberation movement:

...wanted to avoid a situation like the Namibian situation, where principally the Western powers got together and put together Resolution 435 and all its elements. (The ANC thought it important that) a negotiation position should be put forward, not by some Western powers, but by the people of South Africa (and avoid) being locked into somebody else's plan, somebody else's thinking (Thabo Mbeki, cited in Landsberg, 2004, pp.57).

FW de Klerk's announcement before parliament on 2 February 1990 of the government's decision to release Nelson Mandela and un-ban the ANC and PAC was a turning point. The changing international environment, in particular the fall of the Berlin Wall in November 1989 and concurrent collapse of Communist governments in Eastern Europe, had been key factors in the timing of his decision (De Klerk, 1998). Competitive diplomacy ensued between de Klerk and Mandela with both seeking to win international kudos (Alden, 1993). Concurrently, the eminent loss of financial support from its traditional sources in the Eastern Bloc and amongst the Scandinavian countries (the latter statutorily unable to provide funding to political parties) put pressure on the ANC negotiators to wind up a deal as quickly as possible. Western triumphalism and the public exposure of the failings of socialist economies were deeply influential in shaping the ANC elite's decision to abandon socialist tenets such as nationalization of industry and collective agriculture.

The price demanded by the leading industrial countries for disciplining the apartheid government and extending promises of material aid to the ANC was a commitment by the liberation movement to embrace free-market principles (Landsberg and Kabemba, 1998; Landsberg, 2004).<sup>5</sup> Besides international pressure and the collapse of the Communist bloc and its underlying ideology, the adoption of a global neo-liberal orientation could also be explained by the deteriorating condition of the South African economy. The decades of political conflicts, sanctions, economic boycotts and the high levels of borrowing had taken its toll. GDP growth, which in the 1960s had been second to

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<sup>5</sup> As Hood writes, while Mandela had entered prison at a time when nationalisation was an article of faith, he was released into a world where monetarism and its obsession with inflation and the reduction in state expenditure had become the new orthodoxy (Hood, 1994)). Commenting on this shift, it was observed that: "It was not unusual in the early 90s to hear senior ANC spokespersons arguing that the world had totally changed, and that those arguing for more radical or alternative economic solutions in this new globalised context were simply living in a bygone age." (Michie and Padayachee, 1997).

Japan's 'miracle' economy, stood at 0.2% since the onset of financial sanctions in the mid-1980s, while inflation had risen on average by 14.6% per year over the same period. By the early 1990s, the South African government's expenditure reached 30.6% of GDP, whereas tax revenue only amounted to 24.7% of GDP. These factors put significant constraints on the prospects for a post-apartheid government's development of economic policy (Dennis, 2003).

Moreover, such policy orientations corresponded well with the interests of a growing professional black middle class and business group that, since the political transition, were in a position to gain materially from the shift to neo-liberal economic policies. For these strata - black and white - market-oriented policies offered opportunities such as the prospect of purchasing privatized state assets and gaining access to discounted shares in private companies. With its historical roots firmly in the emergent black middle class, the focus of ANC policy had nearly always been not on revolution but rectification of racial barriers to citizenship and economic activity (Dennis, 2003). It is only with the Congress Alliance (grouping the Congress of Democrats, the ANC and members of the SACP) and the development of the Freedom Charter in the 1950s, that socialist policies started to take hold within the organization (Esterhuyse and Philip, 1990). The collapse of the Soviet bloc and the opening of negotiations to the end of apartheid re-ignited the divisions within the ANC and saw the conservatives – exemplified by a battle between the Mandela-Ramaphosa and the Tambo-Mbeki groups – taking office.<sup>6</sup> The ANC, or at least the faction of it that took power, was neither devoted to a socialist revolution nor committed to social democratic policies.<sup>7</sup>

The 'talks about talks' which formed the outline for a political settlement after 1990 gave way for formalised negotiations at the World Trade Centre in Kempton Park, Johannesburg in December 1991. The Convention for a Democratic South Africa (CODESA) brought together the National Party, the ANC, Inkatha and a host of sixteen other smaller parties to hammer out the details of an interim constitution that would pave the way for democratic elections. Initially the National Party saw the forum as endorsing a power-sharing arrangement that would support minority (or group) rights in a federal political system, while the ANC was expected to settle on an elected constituent assembly that would draft the new constitution for a unified majority rule state. Other parties, with the notable exception of Inkatha, were only secondary actors whose role was sublimated to the two main parties. In fact, as the complicated and sometimes fractious discussions dragged on, they were increasingly seen to be an elite exercise which was, in the words of one observer, 'incomprehensible even for the most informed citizen' (Friedman, 1993). In addition, the structure of the negotiating forum shaped the strategies of the main parties by providing extremist and parochial interests in form of the homelands' rightwing or leftist advocates, a voice which tended to pull the National Party and the

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<sup>6</sup> For more information concerning the latter, see Séverin and Aycard (2004); Gumede (2005).

<sup>7</sup> Already during the 1980s, Mbeki notified that the ANC alliance with the SACP would have to be broken. According to Mbeki, the ANC should govern as a centrist party, keeping some remnants of trade union and SACP support. Mbeki resigned from the SACP's central committee and even allowed his membership of the party to lapse, after the collapse of the Soviet Union (Gumede, 2005).

ANC moderates together.<sup>8</sup> One by-product of this was the ANC's attempt to counter the influence of Inkatha by encouraging, primarily in its own rural redoubt in the Transkei and Eastern Cape, the formation of an ANC affiliated traditional leaders group (Friedman, 1993). The Congress of Traditional Leaders of South Africa (Contralesa) went on to become forceful advocates of customary law in communal areas and former homelands in the post-1994 period (see below).

Unlike the Namibian case, the South African negotiating process was protracted, though only in part due to differences between the negotiating positions taken by the two leading parties. Instead, it was the action of hardliners within both parties and the political climate of violence, in which over 3000 politically-inspired deaths were recorded annually between 1990 and 1994, that provided the greatest obstacles to concluding the talks (Davenport and Saunders, 2000). Indeed, a comparison of the opening statements on their respective visions of the future constitution by the National Party and the ANC show little divergence on the basics of a liberal constitution which guaranteed private property, individual rights and universal franchise (Schrire, 1991). The onset of political violence instigated by covert police forces (the 'third force'), coupled to the rising tide of conflict between ANC and Inkatha forces especially in Natal, brought talks to a halt in May 1991. Evidence suggests that – as was the case in Namibia in 1989 – the South African government embarked on a two track strategy of public negotiations alongside covert funding operations and a destabilization campaign against ANC supporters (Collinge, 1992). Subsequently, a failed attempt by ANC militants to overthrow a bantustan government, hammered home the delusions of leftist adventurism to the liberation movement, while the police role in an Inkatha massacre of ANC supporters in Boipatong township brought in, much to the chagrin of the National Party, a formal role for the UN as observers as well as explicit American condemnation of foot-dragging on their part (Friedman, 1993). The result of these two episodes was to bring all parties back to Kempton Park and, despite the murder of a key ANC leader, Chris Hani, in April by white extremists which threatened the country with outright civil war, the interim constitution was finally agreed upon in December 1993. Crucial to the deal was the fact that the National Party had abandoned 'group rights' in favour of an individual Bill of Rights while the ANC had agreed to a power-sharing arrangement of five years based on an interim constitution along with sunset clauses for the Afrikaner dominated civil service.<sup>9</sup> The elections, unlike in other settler states, were to be organized by South Africans through the Independent Electoral Commission while it was agreed that the constitution would be drafted by a constituent assembly after the elections and voted upon by a two-thirds majority. A last minute attempt to involve international negotiators by an ambivalent Buthelezi was summarily rejected by the two leading parties and Inkatha belatedly joined the elections held in April 1994.

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<sup>8</sup> 'Sufficient consensus' became the watchword for an ANC-NP agreement on a given issue which other parties were forced to accept.

<sup>9</sup> Details of the shift are laid out in a public document produced by the ANC. See African National Congress, 'Negotiations: a strategic perspective', <http://www.anc.org.za/ancdocs/history/transition/perspect.html>; also see Friedman (1993).

On the specific issue of land during the lengthy transition, de Klerk's government repealed the 1913 and 1936 land legislation (along with the Group Areas Act) in 1991 and, in response to criticism that took cognizance of the fact that the National Party had to win electoral support amongst black voters, passed the Abolition of Racially Based Land Measures Act (1993), which created an advisory board on the reallocation of state land to disposed peoples (Davenport and Saunders, 2000). Its support for the codification of property rights into the future constitution was increasingly taken up by its negotiating partner, the ANC.

As for the liberation movement, it brought together the ANC's National Land Commission, the Nationalist Party, the World Bank, civil society organizations and representatives of organised white commercial agriculture, like the South African Agricultural Union, in 1992.<sup>10</sup> Notably, there was a near total dearth of peasant organisations on the list of invited participants to the ANC workshops. This situation was not amended, despite the opportunities presented by the subsuming of the National Land Commission into the Land and Agricultural Policy desk of the ANC's Department of Economic Affairs. By 1993, a new think-tank, the Land and Agricultural Policy Centre (LAPC), had been established to undertake policy research on its behalf with the support of the international donor community. Its staff was technocratic in outlook and was primarily dependent on the World Bank and other sources of foreign expertise, leaving little room for inputs from South African civil society movements and peasant organizations (Batterbury, 2000). The ANC's evolving outlook on the land question during the transition period was presented in detail by the ANC's future director of the Land Bank, Helena Dolny, in 1992. After denying the efficacy of the socialist agenda for collectivization and state farms based on the experience of post-colonial Mozambique, which required a weighty bureaucracy open to corruption as well as inspiring capital flight, she advocated 'demand-led reform governed by the principle of affirmative action. In recognition of the realities of a mixed economy, she employed a strategy of market regulation to ensure that the category of intended beneficiaries of land reform were not excluded from future market forces' (Dolny and Klug, 1992). While accepting the market approach and preservation of property rights as the mechanism for reform programmes, she warned that:

The constitutional entrenchment of a strictly free market-based economy implied by the willing seller/willing buyer formula could be used to challenge any attempts to address the inequalities imposed by apartheid, and would, as in Zimbabwe, impose severe limitations on land reform (Dolny and Klug, 1992, pp.324).

Indeed, many of the criticisms that subsequently formed the basis of civil society attacks on the slow process of land reform were anticipated by Dolny. These include the recognition that it would be 'excessively costly' for the state to purchase land at market prices and that addressing the dilemmas posed by communal land tenure and farm

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<sup>10</sup> See also Levin and Weiner's Final report for the MacArthur Foundation (Levin and Weiner, 1994).

workers would require the introduction of a new body of South African common law (Dolny and Klug, 1992). More generally, international observers noted the absence of concern for land issues amongst ANC stalwarts, something that was reflected in the modest attention given to it during the transitional period.

Full democratic elections were held on 27-28 April 1994 amidst fears of disruptive political violence which in the end never seriously materialized. Mandela and the ANC won 252 seats (62% of the vote), while de Klerk and the National Party secured 82 seats (20% of the vote) and Buthelezi's Inkatha 43 seats (10% of the vote). Of the nine new provinces, seven went to the ANC while two were won by the National Party and Inkatha. Despite the widely-hailed success of the transition, the 'grand compromise' which ushered in majoritarian democracy in South Africa was based on, as one observer noted, an elite compromise rooted in competing visions of society:

For the National Party, South Africa is composed of differences – a segmented society, needing power sharing, self-determination of groups and protection of minorities. The ANC took on faith a common society, where non-racialism should be the norm and majoritarianism the natural law of democracy [...]. For the ANC, the National Party's vision meant a compromise with the old order it was sworn to abolish; for the National Party, the ANC's (vision) meant (its own) exclusion from government (Lawrence, 1994, pp.10-11).

These fundamental differences were to sit uncomfortably together in a power-sharing government for the next two years. Indeed, the Government of National Unity (GNU) was itself increasingly seen by the ANC as an obstacle to winning support for its own policies amongst a majority constituency who expected substantive change in their lives (Maphai, 1996). The withdrawal of the National Party from the GNU 1996, at the time of the passage of the new Constitution, spelled an end to the transitional arrangements, though officially they were to continue until the 1999 elections.

### **III. Democracy and Agrarian Reform, 1994-1999**

When Nelson Mandela took office as State President in May 1994, his government inherited an agricultural sector deeply divided along economic and social lines. On the one side of the divide was a well-resourced, highly mechanized commercial agriculture sector almost exclusively dominated by whites. Approximately 60,000 white farmers owned 87 million hectares of commercial farmland which accounted for 95% of South-Africa's total agricultural production and assured the country's sufficiency in most agricultural products (World Bank, 1994). They employed between 750,000 and one million farm workers (SSA, 2000). Commercial agriculture's contribution to the South African export market was 5% in value (SSA, 1997). On the other side of the divide, 14 million blacks eked out a living in the former bantustans and reserves, occupying only 13% of South Africa's land, i.e. 13 million hectares (Department of Agriculture, 1995). The large majority of these people were engaged in one way or another in small-scale

farming activities, mainly used for personal consumption though this only represented 16% of their food needs.<sup>11</sup> According to the World Bank, about 13% of the farm households engaged in commercial activities as part of their production, though only 0.2% of these households could effectively derive a living from it (World Bank, 1994). Furthermore, the study estimated that one-third of the black households in the rural areas had no access to land at all.

Land reform was seminal to the formation of the ANC during its long road to power and featured prominently in its rhetoric during the liberation struggle. Indeed, as noted above, the founding document of the ANC's fight against apartheid, the South African Freedom Charter, proclaimed that 'The Land Shall be Shared Among Those Who Work It!' and went on to say:

[...] that our people have been robbed of their birthright to land, liberty and peace by a form of government founded on injustice and inequality; [...]. Restrictions of land ownership on a racial basis shall be ended, and all the land re-divided amongst those who work it to banish famine and land hunger; [...]. The state shall assist the tillers and help the peasants with implements, seed, tractors and dams to save the soil; [...]. All shall have the right to occupy land wherever they choose.<sup>12</sup>

Reconciling the ideals contained within ANC statements on land made four decades ago with the complexities of South Africa's contemporary agricultural setting, coupled to the high level of expectations raised amongst the black population (and fear, especially pronounced amongst the white farming sector, of ANC rule) formed the crux of the challenge for the new government. Moreover, as an organization that had been in exile for many years, the ANC was aware that it needed to better understand the concerns of the South African population and communicate its own changing attitude towards key economic policies as well as deepen its political ties across the country and within the governing apparatus. To address all of these issues, the Mandela government undertook to re-legitimize apartheid-era governmental institutions which it now occupied (in conjunction with the National Party and Inkatha) and, concurrently, to develop policies which reflected the interests of its key constituency without unduly disrupting the economically important commercial farming sector (Hart, 2002)<sup>13</sup>

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<sup>11</sup> The Department of Agriculture estimates the number of non-white farming households at 2 000 000. Nevertheless, these estimations have to be taken carefully as the definition of a farming household is not well developed nor precise.

<sup>12</sup> See the Freedom Charter 1955.

<sup>13</sup> The elaboration of the South African Constitution is a good example of this process. Vivien Hart writes: "The South African Constitution of 1996 is widely regarded as a model constitutional text. (...) the process by which it was made has been hailed as a key part of the successful transition from the oppression of Apartheid to a democratic society. (...). In a key phase from 1990 to 1994, agreements on process were negotiated in private and public sessions between former adversaries. These included a 1990 agreement to negotiate about constitutional negotiations; prolonged arguments from 1991 through 1992 about the form the constitution-making process should take; agreement in April 1993 on procedures; and in December 1993 agreement on an interim constitution, including principles and procedures binding on the final constitution-making process." (Hart, 2003, pp.7-8).

Building upon the discussions on agrarian reform held during the transition period, the ANC government launched a broad-based consultative process which culminated with the publication of the White Paper on South African Land Policy in 1996. This process included convening a conference which brought together all the national and international protagonists concerning land where preliminary drafts related to land policy were developed. These drafts were formalized in the 'Green Paper on South African Land Policy'. The latter was distributed widely and written observations were solicited from South African civil society and individual citizens. Moreover, approximately thirty workshops were organized with various communities and lobbies, often located in rural areas. This information then guided the Department of Land Affairs in its efforts to integrate the interests of each group or community to develop a set of laws and programmes (Department of Land Affairs, 1997).

Notwithstanding the seemingly open and equity-oriented procedure, the process of consultation and land policy development was both shallow and short-lived. In part this reflected the desire, especially as Deputy President Thabo Mbeki became more involved in the day-to-day running of executive affairs towards 1998, to exert greater control over the policy apparatus. As the ANC in government grew in confidence, especially with the passage of the new constitution and subsequent withdrawal of the National Party from power sharing arrangements, the feeling was that the period of open-ended consultation had come to an end. As Cousins points out:

[I]t seems clear that 'participation', although stressed in the rhetoric of the time, was in practice taken to mean 'consultation'. Real decision making power was retained by the ruling party [...]. In practice, there was an 'inner circle' of trusted groupings and individuals, who participated most actively in debates on policy [...], and an 'outer circle' of stakeholders whose views were solicited but whose actual contributions to policy thinking remained limited (Cousins, 2004, pp.17).

This is illustrated by the minimal impact that the National Land Committee's (NLC's) 'Land Reform Policy Proposals' – which presented different ideas resulting from an extensive engagement with civil society as well as from proposals from NGOs with longstanding experience in the field of land and agriculture – had on the policy-making processes. By 1997, when most of the government ministries had developed their Green or White Papers (and the legislative processes made room for implementation), the willingness of the government to listen to new ideas had weakened while, at the same time, civil society began to experience 'workshop fatigue'.<sup>14</sup> Furthermore, civil influence over the government's agrarian policy waned even more due to the fact that many key NGO protagonists had been brought into government positions.

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<sup>14</sup> The NLC has organized, for example, the Community Land Conference of 1994, bringing together delegates from rural communities. This resulted in a more pro-poor debate within the emerging land policy. The NLC has also supported emerging social movements such as the Landless People's Movement (LPM) and the Land Access Movement of South Africa (LAMOSA) (See Cousins, 2003, pp.11).



Initially agrarian, but in particular land reform policies, were developed which, at least rhetorically, were linked to the government's post-apartheid economic plan, the Reconstruction and Development Programme (RDP). The RDP, promulgated in 1994 by the ANC, stated that land reform was necessary to redress the injustices from forced deportations and denied accesses to land. It aimed to find a solution to the overpopulation of certain rural areas of the former reserves and bantustans and to promote access to residential and farm land (ANC, 1994). Furthermore, the land reform process was seen not only to be a decisive element of the ideological transition, it was also held to be one of the conditions of political, economical and social stabilisation of the country. The importance of this issue caused the ANC to commit itself to redistributing 30% of the land within five years of taking office. In order to meet this objective, several economic policies have been developed and implemented since the first democratic elections (Department of Agriculture, 1995).

For this ambitious post-apartheid reform programme to be successful it had to provide blacks with access to land, agricultural inputs and, in particular, to commercial agriculture in order to create a more equal spatial and sectoral configuration. The starting point therefore was the abolition of the direct subsidies which had benefited white farmers for several decades, the suppression of all agricultural marketing support systems and the transformation of the strongly segregated public institutions related to farm development (i.e. co-operatives, financial services, etc.). At the same time, given the history of expropriation of land in South Africa, the level of protection and subsidies that benefited the white farmers and the poverty of the majority of the black population, the ANC-led government agreed that specific measures were necessary to develop the capacity to ease the spatial segregation inherited from apartheid. As the negotiated transition had enshrined property rights in the new constitution under the 'property clause', every form of expropriation was excluded. Land reform had to be endorsed in accordance with a 'willing buyer – willing seller' principle and had to be achieved within the framework of a free market that was based upon the core criterion of economic efficiency and was racially colour-blind (ANC, 1994; World Bank, 1994). The adoption of this market-led reform, according to the Department of Agriculture, underscored the necessity of the maintenance of the national productive capacities - in order to assure economic stability - without neglecting the imperative of more equity. Accordingly, within this framework, provision for state intervention was made in the Constitution and was embodied in a government land reform programme: land restitution, land redistribution and land tenure reform (Department of Land Affairs, 1997).

*Land restitution*, implemented on the basis of the promulgation of the 'Restitution of Land Rights Act', enables people or communities that were dispossessed from their land after 19 June 1913 (date of the implementation of the first Natives Land Act) to claim the restitution of their lands (or of the equivalent, i.e. other land or financial compensation). By March 1996, the deadline for the deposition of claims, 68,878 individual or grouped demands were deposited.

*Land redistribution* aims at assisting previously disadvantaged populations who lacked access to the previous programme with the purchase of land. The people benefiting from this programme are allocated subsidies supporting them to buy land at market prices. Different forms of land redistribution exist: individual or grouped (gathering of subsidies) resettlement, commonage principle (communal access to land, i.e. an entire community uses these subsidies to purchase land, which will then be added to the existing communal land occupied since 1913 or 1936). The Department of Land Affairs – the only Department engaged in this first phase since it focused exclusively on the land aspect – allocated ‘Settlement/Land Acquisition Grants (SLAG)’ of R15 000 per household (Department of Land Affairs, 1997). These grants were mainly allocated for land purchases, but they could also be used for agricultural investments (on communal land or on land acquired through the restitution programme) or even for housing projects.<sup>15</sup> A number of households, grouped as a legal entity, gathering several SLAG grants, were then in a position to acquire a plot of land – with a communal property association or trust title deed<sup>16</sup> - with the aim to settle or to develop the land for subsistence production.

*Land tenure reform* was the most complex component of the three-tiered land reform process. Its goal was to define and institutionalize every existing mode of land tenure in order to confer precisely defined and more equal rights to the different land owners and occupiers. This programme was primarily concerned with communal land, but it focused also on other areas. One example involves farm workers who were self-employed on properties owned by others, mainly whites. Another aim of this programme was the management of state-owned land (i.e. 25,509,004 hectares, of which 13,332,577 hectares were located in the former reserves and bantustans, the rest being mainly rented out or informally occupied).

Concerning the land tenure reform, parliament promulgated several acts mainly to protect the land rights of labour tenants (Land Reform (Labour Tenants)<sup>17</sup> Act 3, 1996) and those of occupants on private land (Extension of Security of Tenure Act 62, 1997) or people occupying land without formal documentary rights (Interim Protection of Informal Land Rights Act 31, 1996) (Cousins and Claassens, 2004).<sup>18</sup> From 1998 onwards, the main focus of government activity was on developing new laws aimed at improving the

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<sup>15</sup> The SLAG grant of R15 000 (which increased to R16 000 in 1999) can be accessed only once per household. A household that uses the grant for the purchase of land, won't benefit from it for the construction or improvement of its accommodation or for other farm investments.

<sup>16</sup> The Communal Property Associations (CPA) were defined under the Communal Property Association Act 28 of 1996. It represents a new legal mechanism whereby groups of people can acquire and hold land in common, with most rights of full private ownership. CPA's have been established by groups receiving land under both restitution and redistribution programme.

<sup>17</sup> Official title of the Act with brackets.

<sup>18</sup> This process was started with the implementation of the Transformation of Certain Rural Areas Act of 94 of 1998. It provides for the repeal of the Rural Areas Act 9 of 1987 that applied to the 23 so-called coloured reserves in the Western Cape, Northern Cape, Eastern Cape and Free State. It deals with the control of communal land but also provides for the transfer of township land to a municipality. Nevertheless, the bantustan lands were dealt with, due to the difficult relationships and complex power structures of the tradition leadership system.

security of tenure in communal systems. This initiative proved to be highly contentious with key ANC stakeholders in the countryside, namely Contralesa, and provoked numerous protests from these traditional authorities. The key objective was to produce a charter of land rights that could facilitate the transfer of property rights in communal lands (which were still recognized as state property) to the actual residents themselves. This would reduce the ability of traditional leaders to use land matters as a key instrument of social, economic and political control in the rural areas. Recognizing its controversial nature, the charter recommended the introduction of flexible intermediate rights between individual and traditional rights so that these could be attributed to individuals, to groups constituted as legal entities or to communities with democratically elected management committees. The hope was that this would go some way towards reconciling legal imperatives of the constitution with the normative concerns of traditional society. Nevertheless, due to potential conflicts with traditional authorities, this legislative proposal was postponed until after the second democratic elections in 1999.

Establishing the legal framework for land and agrarian reform was an important achievement for the new government, especially given the constraints imposed on substantive transformation through transitional measures such as the ‘sunset clause’ for National Party appointed bureaucrats. The main thrust of this first phase of land reform policies, implemented by the Minister of Agriculture and Land Affairs, Derek Hanekom, had as its key objective the development of subsistence farming. This orientation accentuated the importance of the impact of land reform and of small-scale agricultural production on the social and economic development in rural areas. In this way, the government prioritized food security and means of existence within a country where the inequality of resource distribution was extreme and where the links between black populations and commercial-oriented farming were historically broken up. The adoption of such ideas and objectives impacted on the type of programmes developed and implemented.

The abandonment of the RDP in favour of the more neo-liberal oriented Growth, Employment and Redistribution (GEAR) policy framework in 1996, which aimed at sustainable economic progress through the application of fiscal austerity measures and export-oriented growth, set the stage for a more general re-orientation of government programming. This first phase of land and agrarian reform, with its emphasis on the most marginalized sectors of the rural community, was clearly out of step with the guiding ethos behind GEAR. Furthermore, it failed to address the broader developmental needs of encouraging investment in the rural areas as a means of improving livelihoods. With the formal acceptance of the new constitution in 1996, together with the ending of the power-sharing arrangements with the National Party and the upcoming election in 1999, the ground was laid for a rethinking of South Africa’s land reform policies that was to take it into its next phase.

#### IV. Neo-liberalism and Land Reform, 1999-2004

The ANC led by Thabo Mbeki won the 1999 elections with ease, instilling a sense of confidence in the government and its policies. With the National Party increasingly weakened and the other opposition parties scattered, the ANC was able to secure a strong majority of 66.35% and increase its parliamentary seats to 266 (out of the 400). Mbeki, a technocrat by nature, spoke for many of his supporters when he declared in his inauguration speech that the time had come to get down to the business of long-promised service delivery.<sup>19</sup>

The appointment of Thoko Didiza as Minister of Agriculture and Land Affairs coincided with an effort to bring agrarian reform in line with the government's neo-liberal GEAR policies. The result was that the focus of the first phase of land reform, the promotion of subsistence farming, was effectively shelved and the development of an emergent commercial farming sector became the over-arching priority. This was reflected in the fact that land reform no longer aimed at transferring land to black households promoting self-sufficiency but had as its objective the creation of a structured small-scale commercial farming sector, to improve farm production, to revitalise the rural environment and to create employment opportunities. The impact of this change in government policy was especially felt in the land redistribution and land tenure reform programmes.

Concerning *land redistribution*, the Land Redistribution for Agricultural Development (LRAD) programme became the main policy instrument for the Ministry of Agriculture and Land Affairs (2000). Notably, it did not replace the previous programmes implemented since 1994, but succeeded the SLAG grants that had focused on agricultural projects. After 1999, SLAG was limited to residential projects alone. The LRAD programme delivers grants to the previously disadvantaged with the aim of facilitating access to private farm land or to enhance (infrastructural) development on privately acquired lands. Even if a section concerns commonage projects, LRAD focuses mainly on the transfer of agricultural land to individuals or limited groups, planning to develop commercial-oriented farming activities (Ministry of Agriculture and Land Affairs, 2000). To encourage the development of farming activities, beneficiaries have to invest some funds in the project: contributions of between R5000 to R400 000 per person, entitle beneficiaries to LRAD subsidies, varying from between R20 000 to R100 000 (according to a decreasing curve). The approval of the subsidies is not only based on an equity principle, but on the viability of the project. Hence, it was expected that cooperation between the Department of Land Affairs and the Department of Agriculture would improve.

The *land tenure reform* discussions - postponed because of their sensitivity during the second democratic elections - were relaunched by Didiza under the "Communal Land

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<sup>19</sup> Thabo Mbeki's speech at his inauguration as President of South Africa, 16<sup>th</sup> of June 1999, Union Buildings, Pretoria. [www.anc.org.za/ancdocs/history/mbeki/1999/tm0616.html](http://www.anc.org.za/ancdocs/history/mbeki/1999/tm0616.html).

Rights Bill” in 2001 at a national conference in Durban. A draft document was prepared and published for public comment in August 2002. Criticised by land policy specialists and denounced by the defenders of traditional rights, it was only in April 2004 that a fourth draft was voted (Cousins, 2002; Claassens, 2003). The Communal Land Rights Act (CLaRA) provided for transfer of title of communal land from the state to its current occupants. Even though complex procedures for transfer remain - trying to protect community members and rights, including a rights inquiry, community meetings and adoption of community rules on tenure by a land administration committee (which include the traditional leadership) – the finalization of the Act was assumed to lead to entire privatization of the communal lands. Registration of rights and titles would be transferred to individuals or to a portion of/entire communities converted into a “juristic person” capable of owning land.

### ***Politics and Policy Making under Mbeki***

A number of factors were involved in the changing nature of policy making on land issues, including Mbeki’s centralising approach to governance, internal changes within the key bureaucratic institutions and an increasingly contentious relationship with civil society. With regards to Mbeki, he has been described as a stiff, authoritarian intellectual, coming across as uncaring and distant, and supportive of the idea that embarking on reform through consultations with diverse stakeholders may lead to inertia. This impacted on policy formulation, according to his biographer:

[During] Mbeki’s government [...] reforms have tended to be initiated from above, as with GEAR. Thus they are launched by surprise, independently of public opinion and without the participation of organized political forces (Gumede, 2005, pp.65).

This was particularly the case with the development of the pro-emergent commercial farmers programme LRAD and the CLaRA. LRAD was developed with the technical support of economists from the University of Pretoria, supported by the World Bank, in co-operation with the Director General of the Department of Agriculture, Bongiwe Njobe (a former student of the University of Pretoria) and without consultation with the Department of Land Affairs. The Minister of Agriculture, Thoko Didiza – daughter of an emergent farmer and close to the black emergent farmer organization, NAFU – had sidelined officials with land reform experience. Instead she was preparing to implement the programme through former staff of the old Department of Agriculture who had little experience of supporting new farmer schemes (Lodge, 2002).<sup>20</sup> Although these measures drew heavy criticism from NLC and the University of Western Cape’s Programme for Land and Agrarian Studies (PLAAS), the programme was nonetheless implemented as policy, without any debate or negotiation with either Parliament or civil society.

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<sup>20</sup> Also see Ben Cousins, “Didiza’s recipe for disaster”, Mail & Guardian, 18 August 2000.

More generally, the ANC amended its constitution in 1997 to increase control of the national executive over all structures and re-assert the principle of democratic centralism. Since 1994 and, again more particularly from 1999, South Africa is characterized by a strong power centralization tendency dominated by the ANC. In 1999 the ANC gained just under two-thirds and in 2004 just above two-thirds of the parliamentary seats, which makes it possible to unilaterally change the Constitution. Between the 2004 and 2009 elections, it ruled in all provinces and won 60% of the seats in the local government elections. The party list system according to proportional representation has allowed the ruling party to exercise strict control over its MPs and led to a weakening of Parliament's role and limited the space for free debate (Cousins, 2003).

Another factor was internal bureaucratic changes to the lead departments responsible for agrarian reform. As noted above, Derek Hanekom, supportive of pro-poor land and agricultural policies and who maintained good relationships with several NGO networks, was not re-appointed to cabinet and Thoko Didiza took his place. Lodge writes:

Well before the elections it was evident to insiders that the two politicians were in disagreement over policy. Hanekom had enjoyed a friendly relationship with the NLC, the NGO which represented the cause of the landless people and from which many of his senior managers were drawn, whereas Thoko Didiza [...] was closer to the black 'emergent farmer' lobby (Lodge, 2002, pp.79).

Hanekom's removal was further accompanied by a restructuring of the Department of Agriculture and related institutions, characterized by a total shuffle of their top ranks.<sup>21</sup> Even though this was presented and interpreted as an affirmative-action measure, in ideological terms it reflected a broader shift of the government towards the right. The removal, particularly of those with a background in the pre-1994 NGO activist sector and of deputy-directors Stanley Nkosi and Sue Lund, reflects the rejection of the priority given to poverty alleviation through addressing the needs of the poor, the landless and the subsistence farmers.<sup>22</sup> Shortly afterwards, Helena Dolny, chief executive of the Land Bank, and Joe Slovo's widow, was forced to resign from the Land Bank under allegations of racism, nepotism and corruption.<sup>23</sup> Although a commission of inquiry, led by lawyer Michael Katz, cleared Dolny of 11 of the Bank's 12 allegations, disciplinary action against her was taken.<sup>24</sup> Even though the South African media were divided on this issue,<sup>25</sup> the accusations against her generally offered strong evidence of being politically motivated.

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<sup>21</sup> Jaspreet Kindra, "Hanekom appointees shown the door", Mail & Guardian, 4 August 2000.

<sup>22</sup> Farouk Chothia, "Three Senior Land Affairs officials axed", Business Day, 22 June 2000.

<sup>23</sup> Adele Sulcas, Dolny 'vindicate' by pay hike,

<sup>24</sup> Acting justice Nico Coetsee said that the findings had not recommended disciplinary action against Dolny. According to him, finding Dolny "guilty" on the basis of the Katz report was unfair and even unconstitutional action against her.

<sup>25</sup> Maureen Isaacson, "Dolny gives her account of Land Bank saga", IOL News, 03/03/2001.

Finally, the development and passage of legislation on the CLaRA without civil society involvement highlighted a more general trend under the Mbeki administration of sidelining that sector. Central to this was the changing dynamics of funding for NGOs in South Africa, which had moved from international sources to a heavy reliance on government. Together with a shift to the National Lotteries Board as main disbursement agency, which the government has significant influence over (instead of existing and more experienced civil society grant-making agencies) and the development of minimum standards for good NGO practices, it was obvious that only registered NGOs, willing to undertake service delivery on behalf of the state, would access funds (Smith, 2001). But government intervened also directly in NGO structures and decision-making. This was particularly the case with the NLC network, since some of their main figures helped set up the Landless People's Movement. In July 2003, the Board of the NLC dismissed the NLC Director, Zakes Hlatwayo, in what has been described by the NLC itself as a "witch-hunt". The decision to remove Hlatwayo is seen by NLC's major stakeholders as being motivated primarily by politics of containment. The Board's strategy, possibly under governmental pressure (through NLC's network of affiliates), 'has been to suppress and intimidate the NLC staff who are most vocal in their support for the Landless People's Movement (LPM) and its activities, such as the march during the World Summit for Sustainable Development (WSSD) (LRAN, 2003). By June 2005, the NLC had decided to close its national office and to restructure its network of affiliates.

The result of this process was a marginalization of the NGOs from policy formulation. For example, proposed legislation dealing with the communal land rights was initially planned soon after the 1994 elections, but stalled and was subjected to endlessly redrafting. A final version of the Communal Land Rights Bill (CLRB) was approved by Cabinet in October 2003, which included a new clause that was significantly more favourable to traditional leaders. The memorandum to the Bill noted that over 50 consultative workshops had been held to discuss the matter; however, according to Cousins, only traditional leaders and their representative bodies were invited to participate and NGOs and community representatives were unaware of these gatherings (Cousins and Claassens, 2004). Furthermore, during community meetings and consultative session organized by civil society groups, disagreement with the proposed legislation was persistently voiced.<sup>26</sup> Most of them were highly critical, arguing that the Bill was deeply flawed and possibly even unconstitutional. Nevertheless, the legislation was rushed through Parliament on the eve of the general elections of April 2004 and, it is important to note this, the ANC went on to defeat the Inkatha Freedom Party in its once-secure rural redoubt of KwaZulu-Natal. In the build up to these elections, conflicts between the royal house in KwaZulu-Natal and the Inkatha Freedom Party, linked to the

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<sup>26</sup> Cousins and Claassens (2004) write that in the last two weeks of November 2003, a total of 35 submissions (amongst others, 13 by community groups, 12 by NGOs and COSATU – ANC's alliance partner) were made to public hearings on the Bill called by the portfolio committee on Agriculture and Land Affairs. Only three were in favour of the Bill: besides Spoornet, the two others are the ones closely linked to traditional leadership, i.e. the traditional leader lobby and the Bafokeng Royal Nation. The other 32 were highly critical.

weakness of the present local governments in rural areas, seemed to have led to behind-the-scene agreements between the ANC and traditional authorities. Cousins suggested:

The character of the portfolio committee hearings and subsequent passage of the CLRB through parliament confirmed the suspicion that a political decision to pass the Bill had been made at the highest levels of the ANC. Concerted opposition to the Bill from the ANC's partners in the Tripartite Alliance, COSATU and SACP, and from within the ANC itself (e.g. members of the Joint Monitoring Committee on the Status of Women) did not lead to a postponement of this clearly controversial piece of legislation... (Cousins, 2004, pp.23).

Since then, CLaRA has been legally challenged and – as will be detailed later – declared unconstitutional: four rural communities have turned to the Pretoria High Court to challenge the validity of the Act. They are doing so on the grounds that, in the course of the passage of the Bill through Parliament, the National Council of Provinces failed to facilitate public involvement in the legislative process as required by the Constitution.<sup>27</sup>

### ***The Limits of South Africa's Agrarian Reform Programme***

By the time that the third general elections had taken place in 2004, the land reform process had still shown relatively little advancement, notwithstanding the renewed focus on emergent black farmers by the Department of Agriculture under Didiza. Furthermore, efforts by the South African government to bring closure to some of the key pillars of the reform process, namely the land restitution programme, encountered various obstacles.

The *land restitution* programme progressed very slowly during this period. By 1999, only 3508 households had been given access to 112,919 hectares (Table 1). This represented the realization of only 41 restitution claims (i.e. 0.06% of the 68 878 demands). However, following Mbeki's instructions in 1999 which called for the finalization of the land claims by the end of 2005, the examination of the claims was accelerated: between 1999 and November 2004, 48,784 claims concerning 118,784 households were settled. Nevertheless, since 84% of the restitutions were urban cases and since only one-third gave rise to effective land restitutions (the remaining two-thirds were settled through financial compensation<sup>28</sup>), only 810,292 hectares were restituted.

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<sup>27</sup> Patrick Hlahla, 'Overlooked communities turn to court', Pretoria News, 15/10/2008.

<sup>28</sup> Since every claim concerns a large number of households/individuals (sometimes more than 1000 households), this financial compensation (representing the equivalent of the price of one or a certain number of commercial farms) only represents a small amount of money per household.



**Table 1: Restitution claims settled between 1994 and November 2004**

Year	Restitution claims settled	Concerned households	Hectares restituted	Total costs (Thousands of Rands)
1995-1999	41	3508	112 919	12 601
1999-2004	56 679	151 829	697 373	4 065 950
Total	56 719	155 337	810 292	4 078 551

*Source: Commission on Restitution of Land Rights (2004) & Department of Land Affairs (2004)*

The *land redistribution* programme, although less slow than its counterpart, had not achieved the expected objectives either. The SLAG programme had redistributed 1,082,111 hectares to 109,457 households at the beginning of 2001 (Table 2). Since 2001, LRAD took over and 1,631 projects were settled, totalling 663,320 hectares which involved some 41,000 households. LRAD was able to increase its output mainly because it was not as administratively burdened (it was concerned with the subsidized purchase of self identified individuals and available private land). However, despite a promising start, the process did slow down primarily due to funding problems at government level.

**Table 2: Redistribution projects settled between 1994 and November 2004**

Grants/ Programmes	Redistribution projects settled	Concerned households	Hectares redistributed	Total costs (Thousands of Rands)
SLAG	821	109 457	1 082 111	NA*
LRAD	1631	41 000	663 320	NA
Total	2452	150 457	1 745 431	NA

\*NA: not available

*Source: Department of Land Affairs (2004)*

At the end of 2004, more than 10 years after the first democratic elections, only 3.1% of the 87 million hectares of farmland had been redistributed (all land transfers taken into account, i.e. tenure reform, land restitution and land redistribution). The objective of redistributing 30% of the land had already been postponed until 2015. Nevertheless, at this pace, South Africa is unlikely to even redistribute 10% of the land by that date.

The *land tenure* programme was by far the slowest of the three approaches adopted by government to agrarian reform due to the inherent complexity and the diversity of the existing forms of tenure as well as its political ramifications. In spite of the passage of several legislative acts, little has changed concerning the uncertainty of tenure for most of the black population. Regarding communal lands, though formally made law by Parliament in 2004, the CLaRA has never been implemented. Concerning labour tenant rights, several civil organizations note that the securing process of the farm workers' rights through the Labour Tenants Act and the Extension of Security of Tenure Act had,

on the contrary, increased suspicion of the commercial farmers fearing to (partly) lose their land. This resulted in the deterioration of employment relations, in an increase in illegal evictions and in the adoption of mechanization techniques by commercial farmers (resulting in a reduction of the number of jobs).

## **V. The Changing Discourses on Land: 2004 – 2009 onwards**

Why has the ANC, which had committed itself publicly to pursue significant land reform first as a liberation movement and then as a party in power, achieved so little in the last decade? The answer lies in the government's relatively weak commitment to land issues, manifested in small budgets and low profile actions, as well as – outside of certain constituencies – the general public disinterest in the topic.

Redistributive land reform has remained slow after 2004, affecting only around 5% of South Africa's farm land by 2010. Land tenure reform is at a standstill, with CLaRA being binned for unconstitutionality. With only 0.3% of the national budget (R685 million available per year) devoted to land reform, far below the needs of achieving the stated aims of agrarian reform, it is obvious that the government has neither the capacity nor the will to accomplish the enormous task of alleviating land inequalities.<sup>29</sup> The lack of finances accorded to this process also speaks to the poor standing and negotiating ability of the Department of Land Affairs (now Rural Development and Land Reform) within the government bureaucracy. The administrative complexity poses another set of problems for the advocates of swift action on agrarian reform. Transactions within the framework of the land reform programme take up to two years to complete. These long bureaucratic cycles serve to limit the number of potential farmers able to benefit from the best opportunities (Aliber and Mokoena, 2000).

Despite a rhetorical position on land reform, since coming into power in 1994 the ANC has exhibited little interest in pursuing land and agrarian reform with vigour. Writing in 2002, analyst Tom Lodge said:

Politically, land reform has been assigned a low-priority status by successive (ANC) governments. ANC leaders suggest that this neglect accord with public perceptions that while 'the issue of land was important for local people' the 'central issue' for most people is job creation (Lodge, 2002, pp.84-85).

That is certainly a major reason as to why the South African government spends relatively little means on agriculture and land reform. Job creation in the formal sector is

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<sup>29</sup> These points of view are all the more relevant since of the R685 million available per year for land reform, only R359 million were utilised in 1998-1999 and R103 million in 2000-2001 (Mayson David, 'A critical analysis of the 2001/2002 budget for land reform in South Africa', National Research Programme research report, SPP & NLC, Johannesburg, September 2001). These concerns are furthermore strengthened since only R50 million is attributed to the LRAD programme. Considering land prices, this amount is far less than what is needed to attain the fixed objectives.

seen as more important and pressing. Indeed, with almost 60% of its population urbanized, South Africa is not a rural country (compared to Zimbabwe, where nearly 70% still live in the countryside) (Unesco, 2003). Nevertheless, Anseeuw has shown that even though South Africa is an urban country, many of its inhabitants still maintain a close relationship with rural areas (Anseeuw, 2004). For instance in the Northern Cape Province, where the agricultural sector counts for 22.8% of the total GDP, 60% of the mineworkers are keeping strong relationships with rural areas; 35% are engaged in farming (SSA, 2003).<sup>30</sup> Even though only few (13%) see agriculture as a professional activity, the majority of those who were planning to pursue some form of agricultural activity (44% of the targeted population) considered it as a means of providing food security, a way of saving and generating extra income when necessary. Underlying this classic peasant strategy of using land as a resource to serve, for instance, as an economic buffer in difficult times, such as unemployment or retirement, it suggests that, despite urbanisation, land, rural relationships and agriculture remain important.

These findings are all the more important since South Africa has been confronted by economic decline and growing income inequality since 1994. South Africa is Africa's wealthiest country and remains the economic power house of the region and the continent: its GDP is by far the highest on the continent; only Botswana has a higher per capita income than South Africa's US\$3,020. Among the main achievements, one should note that since 1994 inflation has stabilized and economic growth has been positive (between 1 and 3% per year on average, 5% in 2005). There have also been important investments for social and material infrastructures: housing, health services and education accounted on average for 3%, 11% and 20% of the national budget respectively. More than 500,000 houses have been erected between 1994 and 1999 (even though this is lower than the initially planned amount of one million), 8 million people have accessed clean water and 1.5 million households now have electricity (De Swardt, 2003). A universal pension system and a child care allowance (until the age of 14) have been in place since 2005. Free medical services are now available to all pregnant women and children under the age of seven.

Despite these accomplishments, structural poverty has been worsening (Whiteford and Van Seventer, 2000; Cousins, 2004). The overall economic results remain below the objectives put forward by the government and growth is still lower than the mean demographic growth of 2,4% per annum. The insufficiency of economic growth is all the more problematic in a country that has bet on economic growth as means of redistribution. The official unemployment rate has risen from 19,3% in 1994 to 26,7% in 2005 while the extended rate (which includes the people who are too discouraged to continue to seek actively for work) has increased respectively from 31,5% to 42,9% between 1994 and 2001<sup>31</sup> (SSA, 2005). And while the government's assumptions had been based on an expected increase of jobs in the manufacturing sector, in fact capital

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<sup>30</sup> These statistics vary strongly according to the origin of the mineworkers and the location of the mine. But even in the mines of Kimberley, employing a more urban population, 31% of the mineworkers are keeping strong relationships with rural areas and 17% are planning to engage in farming (Anseeuw, 2004).

<sup>31</sup> Data concerning the extended unemployment rate did not appear in the labour survey of 2005.

(rather than labour) intensive investments to improve competitiveness in the unskilled and semi-skilled sector, such as the commercial farming and mining sectors, have been predominant. The result has been a production increase in capital-intensive sectors, such as the chemical industry and services, with no discernible improvement in labour intensive sectors (Horton, 1999). With the focus on employment creation, labour legislation has not been transformed effectively: social grants remain very low, contribution to pension funds is still not compulsory, minimum salaries are still uncommon. Indeed, as one of the most controversial trends of post-apartheid South Africa, salaried sectors are characterised by increasing flexibility through out-sourcing and contract work (Standing *et al.*, 2000; Anseeuw, 2004). Temporary if not informal contracts, decreased social advantages and lower salaries are the main consequences. The exercise of a remunerated activity and the lack of social security still don't allow for a large part of the population to leave precarious situations. These negative trends in the private sector are combined with reductions in public expenses and public employment (-5,2% between 1994 and 1999) (SSA, 2001).

All of this has resulted in growing income inequality and increasing poverty for many black South Africans. The diminishing saliency of race-based inequalities is now being supplemented by growing intra-racial inequalities. This situation has led Seekings and Natrass to declare that "class divisions [which] are now more important than race." (Seekings and Natrass, 2002; Whiteford and Van Seventer, 2000). A UN study has shown that mean household revenues of the poorest decile have decreased by 19% between 1995 and 2000, whereas the revenues of the richest decile have increased by 15%. In 1999, 40% of the population earned only 4% of the primary revenues and 67% still lived in poverty, 15% more than in 1994 (Irin, 2003). The emerging class structure consists of an increasing multi-racial upper-class (corporate elites and managerial groups), a middle-class of mostly urban, employed workers and a growing marginalized group at the bottom.<sup>32</sup> And, as South Africa's "first (or formal) economy" lacks the capacity to offer the mass of the poor what they expected from the liberation process, more and more have come to rely on their rural networks and communal activities to secure their basic needs. These facts accentuate the dependence of South Africa's poor on agriculture - as subsistence and social security activities<sup>33</sup> - and thus on land (Anseeuw, 2004).

### ***Discontent, demands and disorder: South African society responds***

The desire for land remains a persistent theme amongst South Africa's rural poor and urbanized unemployed population. This has been the case for the urban-based with no access to secure plots (or even semi-urban farm land). Those living on communal land

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<sup>32</sup> Cousins writes that the upper class comprises 12% of the population, earns 48% of all income; the middle group comprises 48% of the population and earns 45% of income (Cousins, 2004).

<sup>33</sup> This results in complex activity systems and intersectoral trajectories of households, which combine migrant labour and farming.

have expressed the shortage of land for the number of people living there. Farm workers and labour tenants are furthermore, increasingly confronted with evictions due to new labour and land laws, that are (ironically) aimed at protecting their rights.<sup>34</sup> For the long-term unemployed and those without formal employment, access to land is often a last alternative. The slow pace of settlement of restitution claims and the limited number of land redistribution projects raise concerns amongst this group:

We want our land back. This was our land. But government is so slow. The entire process started now more than four years ago. Most of us do not have any other income. We really need this land.<sup>35</sup>

At the same time that black South Africans are experiencing discontent with the slow pace of agrarian reform, the rural white farming community has undergone significant trauma of a different kind due to rising violence and the withdrawal of government financial assistance and security. White farmers have watched with growing trepidation as the once staunch government commitment to the constitutionally-negotiated support for the 'willing buyer, willing seller' approach has come under public scrutiny. And, ever aware of white farmers in neighbouring countries (especially in the northern region), the spiral of violence and land invasions in Zimbabwe, along with the local media's portrayal of these events, have produced intense fear and a sense of isolation. The shadow of the apartheid past, whether in the form of legal claims made against dispossession or the spectacle of white farmers being brought to court for their maltreatment of black tenants, has remained ever present, even during the time when the patterns of land ownership began to slowly change under government policy. The result has been an increasingly vocal debate on land within the South African society, one which has fuelled a variety of responses to the slow pace of agrarian reform that has raised its public profile as a political issue.

For white farming communities, a dominant feature of the post-apartheid environment has been the dramatic rise in rural violence, especially (but not exclusively) against the white farming community. Since the onset of democracy in 1994, more than 1,500 'farm killings' – that is murders of white farmers and their families – have occurred (ISS, 2003). Except for 2002, the frequency of these events has been increasing on a yearly basis. The murder rate for farmers is about 274 per 100,000 – more than four times the national figure. While crime is reportedly decreasing in the urban areas, farm attacks continue to increase at an alarming rate. White rural communities, already experiencing difficulty adjusting to the withdrawal of generations of government financial support and solicitude, have been reeling from this barrage of physical violence within their midst. Although a government appointed task force, working in conjunction with the leading white agricultural organisations, AgriSA (an amalgamation of the old Transvaal Agricultural Union and other regional agricultural bodies), was unable to find evidence of a conspiracy in the individual crimes, many in the white rural community remain

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<sup>34</sup> Cf. ESTA (Extension of Security of Tenure Act), earlier in this chapter.

<sup>35</sup> Interview with landless unemployed, Northwest Province, July 2004.

convinced that there is an ANC-led plot to drive them from the land (Human Rights Watch, 2001). Moreover, even if the motives of these attacks are diverse, their importance as an indication of the breakdown of the social order in rural South Africa and the pressure for reassessing the land issue is self-evident.<sup>36</sup> There is thus ironically, in parallel with the black population's disquiet with the liberation party's inaction on land reform, a white settler discourse on the liberation party's neglect or even collusion with those involved in killing farmers. Feeding into these attitudes was government's decision in 2003 to officially disband the commando structure, once the heart of the white settler rural defence system during the apartheid years, which was greeted with deep foreboding by white farmers who saw this as a deliberate step aimed at further reducing their capacity to defend themselves against targeted violence.<sup>37</sup> AgriSA's Spokesperson Kiewiet Ferreira said a vacuum would be left in rural security, which is "extremely disappointing", "unacceptable" and "unilateral", creating an "opportunity for criminal elements to destabilise rural areas, with accompanying negative effects for continued sustainable food production."<sup>38</sup>

The role of the Zimbabwean crisis, which received significant media coverage in South Africa from its outset, has been integral to shaping local South African perceptions of their own land question. Zimbabwean political exiles and a steady flow of hundreds of thousands of refugees (whose numbers are now said to rank in the millions), as well as local opposition parties such as the Democratic Alliance and the Pan Africanist Congress, all weighed into the growing chorus of debate on South and Southern Africa's land situation.<sup>39</sup> The South African media have accorded a high profile to farm invasions and fast-track settlement in Zimbabwe. In response to widely expressed fears that "this could happen here too", there has been an increase in government's rhetoric on speeding up land reform. Media attention has often focused – and probably emphasized – the negative aspects of the Zimbabwean fast-track: violent social conflict, disorder, famine, etc. Pretoria's alarm was such that at the height of the first phase of Zimbabwean land invasions between February and June 2000, the state-owned broadcaster, SABC, provided a carefully managed counter imagery of South Africa's orderly and (as presented) successful land reform process in its television news reports.<sup>40</sup> According to an ANC member of Parliament, the SABC's focus on the negative aspects of such a fast-track reform was meant to calm down the population. Whether intentionally or not, the negative images of the situation in Zimbabwe since 2000, have led to mixed reactions: "Land reform has to go on, but not in this way. Their situation [of the Zimbabweans] worsened".<sup>41</sup>

<sup>36</sup> In many ways this is another parallel with Zimbabwe, where the deaths of white farmers in the aftermath of independence far exceeded the number killed during the 'bush war'.

<sup>37</sup> Sapa, 'Scrapping commandos 'a mistake'', News24, 14/02/2003.

<sup>38</sup> Sapa, 'AgriSA upset about commandos', News24, 18/02/2003).

<sup>39</sup> Talbot, 'South Africa: ANC government evicts poor squatters', WWSW, [http://www.wsws.org/articles/2001/\\_jul2001/](http://www.wsws.org/articles/2001/_jul2001/), 13/07/2001; Sapa, 'DA: Government must look to land market for reform', FIN24, 15/08/2006.

<sup>40</sup> Various broadcasts, April-June 2000.

<sup>41</sup> Interview with landless farm workers, Northwest Province, July 2004.

The heightened public profile of land after 2000 brought the relatively meagre results of the South African government's agrarian reform programme into sharp focus and emboldened local land activists. Early July 2001, several thousands of people illegally occupied and started building shacks on vacant state land in Bredell, a peri-urban area near Johannesburg. On that occasion, the opposition PAC attempted to use the event to raise its own profile, referring explicitly to the unresolved land question and called on government to follow the Zimbabwean route.<sup>42</sup> Severe government intervention through police and military forces was used to remove the thousands of homeless people within a couple of days.<sup>43</sup> The fight had also amassed human rights activists and several NGOs. The same year, the Landless People's Movement (LPM) first emerged in the Mpumalanga Province in response to farm worker and labour tenant evictions from commercial farms. Since then, the LPM organised branches in several provinces with membership drawn from amongst residents of informal settlements around towns, dissatisfied land restitution claimants, land-hungry people from overcrowded former 'homelands' and even some chiefs. Several farm invasions and marches have been organised by LPM in support of local struggles as well as in the context of international conferences, such as the World Conference on Racism<sup>44</sup> and the World Summit for Sustainable Development (WSSD).<sup>45</sup> At the latter, the LPM invited Mugabe to address a crowd to incite Zimbabwe style redistribution of assets and land. Mugabe's speech won loud applause from several fractions of the audience, which made policy analyst David Steven conclude "Robert Mugabe – the hero of WSSD!" by stating that the President was the 47<sup>th</sup> head of state to speak at the WSSD, but was the first one to provoke any audible response.<sup>46</sup> This event resulted in several LPM members and NLC representatives – 205 in total<sup>47</sup> -- being arrested for holding "illegal gatherings" and also attracted the attention of South Africa's National Intelligence Agency concerned about further organised farm invasions.

Increasingly, Mugabe's land reform policies and his anti-imperialist attacks against the West received public support within unexpected quarters in South Africa. On 13 March 2002, a huge crowd of students applauded Mugabe's presidential success, even though fraud was evident, at the University of the Western Cape - Cape Town's historically black university. On 27 April 2004, at the inauguration of President Thabo Mbeki's second term, Zimbabwe's president received a standing ovation by several thousands of people at the Union Buildings. The enthusiastic welcome for Mugabe attracted considerable media attention and could be seen as demonstrating the narrow constituency that the ANC in government had for its land programme as well as serving as a

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<sup>42</sup> 'Squatters, PAC to fight eviction', Business Day, 13/7/2001.

<sup>43</sup> 'Police clear PAC's field of dream', Mail and Guardian, 6/7/2001.

<sup>44</sup> The Landless People's Movement (LPM), the National Land Committee (NLC), The Rural Development Services Network (RDSN) and the South African NGO Coalition (SANGOCO) have led the "Landlessness is Racism" campaign (See SABCnews, 7/9/2001).

<sup>45</sup> 'The march of hope', IPSnews, 31/8/2002.

<sup>46</sup> Steven, D., 'Robert Mugabe – the hero of WSSD!', DailySummit, [www.dailysummit.net/archives](http://www.dailysummit.net/archives), 07/09/2002.

<sup>47</sup> '250 arrests welcome the WSSD', Indymedia, 22/8/2002.

justification for Mbeki's 'quiet diplomacy' towards Zimbabwe.<sup>48</sup> Nevertheless, even if these events show new trends that indicate the desire of some for a more radical land reform, most of the people were reluctant to act against the law or the state. As one restitutions claimant – who had been waiting four years for his claim to be processed and was still awaiting finalization pending approval by the white owners – emphasized:

During apartheid, it was the white government who removed us and who took our land. The white farmers were given the land by their government. They didn't take it themselves. It is thus our government's task to resolve this problem, to buy the land and to restitute it to us. It is not our duty or right to do so ourselves.<sup>49</sup>

In fact, land invasions are not new and have been a long-standing feature of South African life (James, 2007). It was clear that the Bredell squatters, rather than being members of the rural poor or the intended beneficiaries of "land reform", were in fact unemployed backyard tenants from nearby African townships who were no longer able to pay rent to their landlords. According to James, they were not representing a critical mass that could have destabilized the nation. And, despite its high media profile, the fact remains that most of the landless and rural poor still avoid participation with associations such as the LPM. Survey literature suggests that even though 54% of black South Africans would support the government if it were to implement more radical land reform measures (including expropriation), the majority of people interviewed are not in agreement with LPM's actions and ideologies.<sup>50</sup> With only 7000 members, the LPM is very much a nascent popular movement whose significance should not be over-estimated.

Consequently, numerous still expressed confidence in their government: 'Our government is young, ten years is too early. We have confidence in them. Give them some more time. They will deliver. They have to deliver. They know we are waiting'.<sup>51</sup> In this sense the ANC's "nation-building project" has proven to be successful: the poor were being kept on board by the party for whom they had cast their votes in South Africa's landmark democratic elections in 1994. Indeed, votes for the ANC reached 69.68% at the presidential elections in 2004 (IEC, 2004), more than the two-thirds necessary to change the constitution, and almost 66% in 2009 when Jacob Zuma was elected. Even critics like Marais acknowledge that the ANC government has had some success in building the nation in such a way as to obscure the socio-economic fault lines and has thus achieved stability (Marais, 2001).

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<sup>48</sup> Gutto, S., 'Why they cheered for Mugabe', Thisday, 04/05/2004; Du Toit, P., 'Land issue illustrates social rift', Business Day, 05/05/2004.

<sup>49</sup> Interview with restitution claimant waiting for his claim to be processed, Northwest Province, July 2004.

<sup>50</sup> In 2004, the LPM had asked the landless and the poorer to boycott the Presidential elections. Most South Africans disapproved of such actions and viewed it as unfaithfulness towards democracy and towards the ANC. This, according to the interviewees, is something an association such as the LPM, should not engage in.

<sup>51</sup> Interview with restitution claimant waiting for his claim to be processed, Northwest Province, July 2004.



South Africa's political stability remains a key characteristic and the support for the ANC its most enduring feature. A lack of political alternatives – or at least those without a historical connection to the discredited parties (Democratic Alliance (DA)) or policies (PAC) of the past – has led to the fact that even if the ANC is facing a growing credibility crisis due to a lack of delivery, it is still assured of certain victory in most areas of the country in the municipal elections.<sup>52</sup> This has been the case in the latest Local Government elections in March 2006, where the ANC – although it was expected to suffer some backlashes as the pre-elections troubles showed – gathered more than 61% of the total seats (IEC, 2006). But at the same time, the violent demonstrations and other manifestations of public discontent that accompanied the elections illustrate, that there is a well-spring of discontent. While South Africans may cheer Mugabe, they clearly do not support Zimbabwe-style land takeovers. A main reason has to do with the dynamics of South Africa's internal politics. As Du Toit writes:

What is coming to light is that we still have some unfinished business from the negotiations of 10 years ago. We do not have a national consensus on what the Constitution stands for. We also do not have a national consensus on the meaning of transformation. We need to start talking again. Not to reinvent the constitutional wheel, but to renegotiate the meaning of the constitution, and to find a national consensus on the meaning of transformation. This is necessary before we will be able to deal with the land issue, and others.<sup>53</sup>

Profound change is noticeable though. The 2009 presidential elections took place against a backdrop of 18 months of political turmoil, as the ANC experienced a degree of internal conflicts and reforms (Saks, 2009). The latter was mainly characterized by the ousting of Thabo Mbeki as ANC leader at the party's 52<sup>nd</sup> National Congress in Polokwane, in December 2007, in favour of his rival, Jacob Zuma, and the subsequent fall of his administration in 2008. Zuma's election and the entire restructuring of the party's upper echelon – the top six positions in the ANC were won by Zuma supporters – came as popular anger mounted against the free market policies of President Thabo Mbeki. As such, the South Africa Sunday Times explains, 'Zuma has promised repeatedly to deliver on those expectations—to create jobs, to build houses, to lay water pipes, to revive crippled clinics, to revamp the education, to make the streets safer, to ensure that justice is accessible, effective and equitable, and to guarantee the independence of the watchdogs that guard our rights' (Bassett and Clarke, 2008, pp.795). He is widely seen as crystallizing the hopes of the many South Africans who feel that they have not enjoyed the benefits they expected would follow the end of the apartheid regime in 1994.

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<sup>52</sup> Brown, K., 'South Africa: ANC will win poll but lose credibility', Business Day, 21/02/2006.

<sup>53</sup> Du Toit, P., 'Land issue illustrates social rift', Business Day, 05/05/2004.

### ***The politics of race and imperialism: contrary discourses in the post-apartheid South Africa on Zimbabwe***

Mbeki's curious equivocations on Zimbabwe, land reform at home and internationally have raised questions as to the sources and consistency in South African policy making on these issues. In fact, they represent an attempt by the South African government to respond to opposing demands – from those strongly linked to confronting a liberal narrative from local, international capital and international organizations to a pan-African socially oriented narrative from civil society and several African leaders. This gave way to a rising public discourse, led by Mbeki himself, on the role of race and the continuing negative consequences of colonialism for South Africa which ultimately paved the way for a policy review of a key tenet of agrarian reform, that is the 'willing-seller, willing-buyer' principle.

A first expression of this concerns the 're-racialisation' of South African politics and its approach to the Zimbabwean issue. Under the Mbeki presidency (whose ascension to power in 1999 was matched with the increasing political and economic problems in Zimbabwe), South African policy towards Zimbabwe was subject to (intentional) contradictions. In the initial stages, while Pretoria resisted domestic pressure to institute fast-track land reform at home, it did not criticize the same policies implemented by its neighbour: "We are not going to be combative with Zimbabwe ... we will exercise responsibility".<sup>54</sup> On the contrary it is engaging in a 'quiet diplomacy' and even in a supportive and constructive engagement with Zimbabwe: '[Zimbabwe's] elections have been credible and legitimate';<sup>55</sup> 'President Mugabe and I will meet...to pursue the objectives of peace, stability, democracy and social progress for Zimbabwe, South Africa and the rest of the region.'<sup>56</sup> Zimbabwe's land seizures and farm invasions were characterised by Mbeki as a necessary form of redistribution: 'Land redistribution is a problem caused by colonialism.' (Johnson, 2001, pp.7). MDC leader, Morgan Tsvangirai, became so exasperated at the South African strategy that he launched a bitterly worded attack on Mbeki and South African policy at the end of 2002. Tsvangirai accused Mbeki of being a 'dishonest broker' and South Africa of becoming 'part of the Zimbabwean problem because its actions are worsening the crisis.'<sup>57</sup>

One reason for Mbeki to have taken up this seemingly contradictory position of support for Mugabe and his policies lies in the convergence between the politics of race and neo-imperialism. As McKinley (2003) writes, for the majority of the white population and the predominantly white political opposition in Southern Africa, Mugabe's land programme is viewed as a disingenuous and politically motivated attempt to maintain

<sup>54</sup> Nkosozena Dlamini-Zuma, South African Foreign Minister, cited by Granelli, M., 'SA won't condemn Mugabe', Saturday Star, 16/2/2001.

<sup>55</sup> ANC MPs cited in Editorial M&G, 22-28 March 2002.

<sup>56</sup> Mbeki speech in ANC Today - Volume 1, No 9, 23 March 2001.

<sup>57</sup> Morgan Tsvangirai address at a meeting with MDC members of Parliament at Party Headquarters – Harvest House, Harare, 18 December 2002. Posted on the website of the Centre for Civil Society (University of Natal – Durban), <http://www.nu.ac.za/ccs>.

power at the expense of white Zimbabweans. The North is against Mugabe, the South in favour. This has been confirmed by the fact that the participants of the Summit of the Non-Alignment Movement held in Tanzania in 2003 gave unqualified political support to the Mugabe regime at virtually the same time that Australia, Britain and the United States were successfully pushing for the renewal and extension of “smart sanctions” against Mugabe and his cronies. According to such an approach the racial solidarity would be the driving force behind policy stances of African leaders, including Thabo Mbeki, towards the Zimbabwe crisis.

This racial perspective is highly influential and reflects an omni-present white-black opposition narrative amongst black South African elites. The ANC led South African government would never support the only significant opposition party to Mugabe – being the MDC – as it represents and is seen as supporting white farmers’ interests (Weizmann, 2002). Supporting the MDC would be in contradiction with the solidarity principles of South Africa’s and Zimbabwe’s common liberation struggle against the white settler. Mugabe still represents for the South African political leaders, in particular the ones who were in exile, one of their main “comrades”, a partner in South Africa’s liberation struggle. Gutto writes:

His country was an important and strategic member of the frontline nations during the liberation struggles in South Africa. It was home to many in the external wing of the liberation movements – ANC, PAC and Azapo. It not only offered strategic logistical advantages to the political and military aspects of the struggle, it was also a victim of the military onslaught by the forces of the apartheid regime, in the same way as Mozambique, Lesotho, Botswana and Zambia.<sup>58</sup>

Furthermore, rumours circulating in ANC circles that the MDC was mainly financed, along with support from international associations, by South Africa’s Democratic Alliance contributed to its staunch support for Zanu-PF as did the fear of local trade union activism inspired by the Zimbabwean Congress of Trade Union’s role in the MDC.

But Mbeki and the South African government have taken this position even further. First of all, the South African government identified Zimbabwe’s 2002 presidential elections as legitimate and, in February 2003, Dlamini-Zuma stated ‘we will never criticise Zimbabwe.’ Stating that South Africa is a liberal country, and given its own sorry state of land reform, implementing sanctions against Zimbabwe’s regime, even if they are so-called smart sanctions, would be against South Africa’s moral principles. As stressed by Mbeki at the Commonwealth gathering in Abuja in 2003, this would mainly affect the poorest. Furthermore, Mbeki himself repeatedly opposed punishment of Mugabe’s regime by the international bodies (such as the UN Human Rights Commission) and strong holders. In March 2003, he even tried to have Zimbabwe readmitted to the Commonwealth. At the Abuja meeting, he wanted Mugabe to be invited and even

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<sup>58</sup> Gutto, S., ‘Why they cheered for Mugabe’, Thisday, 04/05/2004.

attempted to punish Don McKinnon, Commonwealth's secretary-general, for not doing so by attempting to remove him from his position.<sup>59</sup>

For Pretoria, Mugabe's land policies represent a genuine, if at times misapplied, attempt to address what Mbeki calls "one of the enduring legacies of colonialism", namely large-scale white ownership of land at the expense of the black majority. Mbeki has since increasingly pushed race to the forefront of the political debate in South Africa and has repeatedly clashed with Tony Leon, former leader of the main opposition Democratic Alliance (DA), on the issue. Presidential tirades accused South African whites of failing to support democracy and of preventing the creation of a new non-racial society as a result of their continued racism. White South Africans have been, in his words, engaging in a Cold War because they are 'unwilling to accept the end of white minority rule'.<sup>60</sup>

They say they are "in favour of change" [...]. They say they support the objective of building a democratic South Africa but view the popular support our movement enjoys as a threat to democracy. [...] They say they support the creation of a non-racial society but are opposed to affirmative action and black economic empowerment, which they denounce as being nothing more than the perpetuation and entrenchment of 'crony capitalism'.

Notwithstanding the declaration that post-apartheid South Africa is a 'rainbow nation' and that the ANC's Freedom Charter states that South Africa 'belongs to all who live in it', the matter of race is again taking centre stage (assuming it had ever left it). The question of citizenship and its intertwining with race has become increasingly common in contemporary South African discourse. Examples include the publication of the ANC's National General Council's discussion document on the 'National Question' as well as the creation of a black intellectual society called the 'Native Club' (ANC, 2005). If the Freedom Charter deals with the liberation of Africans in general and blacks in particular, the ANC discussion document primarily argues that the 'rainbow nation' is a nebulous concept at best. Tony Leon, the former leader of the Democratic Alliance, writes that the ANC's rejection of the 'rainbow nation' is a wake-up call to South Africans of all backgrounds.<sup>61</sup> According to Tony Leon, the ANC, through ANC MP Molefi Sefularo<sup>62</sup>, attempts to justify the party's view by posing the question 'are you truly an African?'

Directly related to the land question, is once again the Dolny saga. Entirely linked to the shift in policies towards GEAR and, concerning the agricultural sector, towards LRAD, the Dolny saga was nonetheless seen by many as proof of the racist outlook of government. The South African media were clearly divided along racial lines.<sup>63</sup> This was

<sup>59</sup> Nevertheless, Mbeki's candidate, the Sri Lankan foreign Minister Kadirgamar, lost with 11 votes against 40. Surprisingly or not, according to Zwnews, most of Commonwealth's African countries voted against Mbeki's candidate.

<sup>60</sup> 'Mbeki lashes out at whites', Pretoria News, 08/01/2005.

<sup>61</sup> Leon, T., 'End of the Rainbow Nation', Sunday Times, 05/06/2005.

<sup>62</sup> Sefularo, M., 'Are you truly an African?', Sunday Times, 29/05/2005.

<sup>63</sup> Isaacson, M., 'Dolny gives her account of Land Bank saga', The Star, 03/03/2001.

confirmed by former Land Affairs Department sources who claimed there had been concerted efforts to rid the Department of the white – albeit leftist – wing. These observations are evidence that the racial divide debate is not that impoverished. It has on the contrary been reviving since Zimbabwe's controversial land reform and Mugabe's opposition towards white occupation in Africa.

## **VI. South Africa's 'Fast-Track' Agrarian Reform: radicalism, reform or defusing the crisis?**

Against the background of the Zimbabwean crisis and the local pressure which had built up in its wake, the South African government began to shift its rhetoric and, with that its policies. In January 2004, Mbeki signed legislation allowing government to expropriate land without Court approval, providing that landowners are fairly compensated and could contest the process in court. The Act requires that the compensation and time and manner of payment for expropriations shall be determined by agreement or by the Land Claims Court. At the same time, Mbeki announced that his government plans to redistribute 30 percent of commercial farmland, currently owned by white farmers, to landless blacks by 2015. He also announced that all restitution claims would be finalised within the next three years. The immediate priority would then be to conclude the legal settlement of all outstanding claims by March 2008. The relevant Minister would set up a task team, led by the Chief Land Claims Commissioner, to assist in further refining the existing implementation plan. Other task teams would be created at provincial level. Additional budget would be allocated in order to finalise the programme: Finance Minister Trevor Manuel in his budget speech earlier that year announced that an amount of R6 billion had been allocated to provinces to complete the land restitution process in the next three years.

In addition, the government confirmed that it was considering classifying land owners in South Africa in terms of their race and nationality. The *Beeld* newspaper earlier published a report claiming that existing land legislation could be amended to allow information on race and nationality to be shown on owners' title deeds. Although, the government emphasized that this was being done purely to help it gauge the pace of land reform, Democratic Alliance land affairs spokesperson Maans Nel warned that such classification 'risks becoming another form of institutionalized apartheid we have worked so hard to abolish'.<sup>64</sup> Nevertheless, a Panel of Experts on Foreign Ownership of Land (PEFOL), directed by Shadrack Ghutto, was commissioned by the Minister of Agriculture and Land Affairs in August 2004 to investigate the development of policy on the regulation of ownership of land in South Africa by foreigners. The report, released on the 17<sup>th</sup> of February 2006, stated that there would be no short-term moratorium on the sale of land to foreigners or expropriation of land belonging to non-citizens, but that there would in future be regulations aimed at reducing speculative activity (PEFOL, 2006). Although the Deputy Minister of Land and Agriculture said that the impact of foreign

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<sup>64</sup> Davies, R., 'Government to classify land owners by race', Cape Times, 10/02/2005.

ownership was mainly limited to the Atlantic seaboard in the Cape and areas bordering game reserves in Limpopo, this initiative answered to a strong and growing public opinion that more needs to be done and more quickly.<sup>65</sup>

But the most important development was the outcome of the government-sponsored National Land Summit held in July 2005. The Land Summit was called for by the South African Communist Party (SACP) in its 2004 'Red October' campaign and was preceded by a series of provincial land summits which ostensibly prepared the ground. While the SACP symbolically occupied several municipal plots, the approximately 4,000 participants drawn from government and academia to international organizations and other sectors in South African civil society, recommended that land reform be accelerated. Despite intense disagreement on the best "model of land reform", those who favoured the market-based approach or the "willing seller-willing buyer" model - including the World Bank, the state, some tribal leaders and commercial farmers - formed the minority.<sup>66</sup> By the end of the Land Summit, a wide range of resolutions called for by civil society organisations were adopted, including the rejection of the 'willing buyer - willing seller' principle as the basis for land reform, the proactive acquisition of land using expropriation when necessary and a moratorium on the eviction of farm dwellers. The Land Summit led the former Deputy President, Phumzile Mlambo-Ngcuka, to declare that:

Land reform in South Africa has been too slow and too structured. There needs to be a bit of 'oomph'. That's why we may need the skills of Zimbabwe to help us. On agrarian and land reform, South Africa should learn some lessons from Zimbabwe -- how to do it fast (Dyer, 2005).

Following the Land Summit, the government announced that it would be seizing a white farmer's land on 3 August 2005. Indeed, South Africa is planning for the first time to expropriate a white-owned farm and transfer the land to black owners, after the Commission on Restitution of Land Rights indicated that an expropriation notice would be served on a cattle and crop farm in the North West province.<sup>67</sup> The Provincial Commission on Restitution of Land Rights confirmed this and added on 27 September that five more farms were listed for expropriation, should landowners continue to contest the process after receiving the restitution notice.<sup>68</sup>

Within the media, there were alarmist reports that 'South Africa's 40,000 white farmers are threatened with forced land expropriation after a government land summit called for a "fast-track" programme of redistribution'<sup>69</sup>. Some experts announced that the latest declarations heralded a new, aggressive effort to start a moribund land redistribution

<sup>65</sup> Hartley, H., 'South Africa: No Freeze On land sales to foreigners – State', Business Day, 08/03/2006.

<sup>66</sup> Jacobs, P.T., 'A Note on South Africa's National Land Summit', Monthly Review Webzine, 26 October 2005, <http://mrzine.monthlyreview.org/jacobs261005.html>.

<sup>67</sup> Le Roux, M., 'Owner to contest first SA farm expropriation', Mail and Guardian, 22/09/2005.

<sup>68</sup> Sapa, 'South Africa: Five more farms listed for expropriation, The Citizen, 27/09/2005.

<sup>69</sup> Basildon, P., 'South Africa reveals plan to seize white farmers' land', The Independent, 03/08/2005.

programme. However, as Cousins points out, the expropriation threat appeared to be limited and that these cases reflected a move by the government to resolve a long-simmering dispute, which does not – in contrast to the Zimbabwean expropriation cases – involve the overturning of or amendment of laws.<sup>70</sup> It signals, however, a more intensive effort to increase the rate at which white-held lands were transferred to blacks through a greater use of the existing mechanisms. The fact that the SACP and Cosatu – the largest trade union federation, both part of the tri-partite alliance constituting government – are showing real interest in land and agrarian reform, should renew pressure for fundamental changes in government policies and implemented measures.

As such, despite these concerns of Zimbabwean-style expropriations, a closer reading of events suggests that the Mbeki administration has taken pragmatic approach to the land issue, seeking to address it in a substantive way as rapidly as possible while staying within the boundaries of the constitution. This has been apparent from Mbeki's interventions aimed at calming public opinion and rectifying his Deputy President's statements after the Land Summit. The then new Agriculture and Land Affairs Minister Lulu Xingwana, under obvious pressure of the President, emphasised before parliament that the South African constitution respected property and that Zimbabwean-style expropriation is thus excluded.<sup>71</sup>

Analysts from the right and the left, while disputing some of the substance of the land issue, nonetheless agreed on the commitment of the Mbeki government to the constitution. For instance, Lourie Bosman, the president of Agri SA, believes that the government had no intention to amend the South African constitution as this would do untold damage to its international image. The latter was of extreme importance for Mbeki and his close collaborators, South Africa's old and new elite. Speeding up land reform through amending the constitution would have destroyed South Africa's continental initiatives, in particular the New Economic Partnership for African Development (NEPAD). The government's approach towards the Zimbabwe crisis reflects these imperatives:

Mbeki's objective, while trying to minimize the negative impact of the Zimbabwean crisis, is securing the strategic interests of South African capital whilst simultaneously consolidating his government's role as the main African arbiter of both a regional and continental capitalist political economy. The installation of a "new look" ZANU-PF government that is more "acceptable" to the international financial institutions and the core capitalist states in the North, will be a double success for Mbeki, further cementing South Africa's position as sub-imperial power number one in the neighbourhood (McKinley, 2003).

Such a unilateral approach would hurt South Africa's image as an accountable intermediary and would harm NEPAD's legitimacy with the leading states in the

<sup>70</sup> Wines, M., 'South Africa to Take Farm From a White', New York Times, 27/09/2005.

<sup>71</sup> Wyndham, H., 'South Africa: No Land Grab for SA, Says Minister', Business Day, 14/11/2006.

international economy. For some critics of the left, South Africa's foreign policy towards Zimbabwe is the fulfilment of a hegemonic project driven by the combined and complementary class interests of South Africa's emergent black and traditional (white) bourgeoisie (whether located in the public and/or private sectors). Avoiding a total decline of the Zimbabwean economy has made it possible to - at least partly offset the negative consequences on the South African economy - the impact on national macro-economic features,<sup>72</sup> decreased exports to Zimbabwe<sup>73</sup> and the increased migration of Zimbabweans to South Africa<sup>74</sup>, while theoretically opening up investment opportunities for South African companies.<sup>75</sup> The South African economic 'rescue package' mooted in 2000 and the ever-present possibility that Eskom, the South African power para-statal to whom Harare owed considerable sums, would be authorized to cut off electricity to Zimbabwe did not materialize. More recently, the private discussions held in late 2005 between the South African Treasury and its Zimbabwean counterparts, the latter led by Gideon Gono, were a setting for explicit demands that South African financial assistance be made available on condition that a negotiated power sharing arrangement with the opposition commence.<sup>76</sup> By this late stage, the willingness of South African officials to pressure erstwhile comrades in Harare, matched by public meetings with the opposition MDC leadership, underscored the exasperation felt by Mbeki at the Zimbabwean government's intransigence. At the same time, with the domestic agrarian reform programme taking shape, Pretoria was beginning to exhibit greater confidence in its

<sup>72</sup> According to a study referred to by Cousins, the Zimbabwean crisis led, between 2000 and 2003, to a decrease of 1,3% in South Africa's gross domestic product, to a reduction of foreign direct investment and resulted in a weakening of the Rand, in higher inflation and higher interest rates and led to a drop in tourism (Cousins, 2003).

<sup>73</sup> According to Buthelezi, the main reason for South Africa's "constructive engagement" policy is the desire to ensure that there is not a total collapse of the Zimbabwean economy. South Africa is a net exporter to Zimbabwe and its wellbeing is thus important to South Africa. Buthelezi explains that the "cautious" approach towards the Mugabe regime on issues of political repression and general abuse of human rights reflects the Mbeki government's desire for more gradual political change that would prevent such a "collapse". Buthelezi, Sipho, 'South African policy towards Zimbabwe', Seminar talk presented at Centre for the Study of Violence and Reconciliation, Johannesburg, 25 February 2003.

<sup>74</sup> 'Africa needs to bring Mugabe to his senses', Sunday Independent, 13/01/2002.

<sup>75</sup> Just before Zimbabwe's national parliamentary elections in 2000, Mbeki announced an economic "rescue package" for the Mugabe regime of close to R1 billion (IRIN, 2000). The official explanation of such financial support was a pre-emptive move by the Mbeki government to halt the decline of the Zimbabwean economy in the interest of the Zimbabwean people, South Africa and the Southern African region (See McKinley, 2003). Nevertheless, this rescue package was aimed at reimbursing Zimbabwe's debt towards South Africa, in particular to South African para-statals such as SASOL and ESKOM (debt evaluated at respectively R300 million and R250 million). Another part of this package also included more than twenty joint investment projects in Zimbabwe, in the areas of infrastructure, tourism and natural gas exploration (IRIN, 2000). As McKinley notes: "The rescue package represented the securing of the economic (class?) interest of an emergent black South African bourgeoisie, in both the public and private sectors, under the auspices of a "foreign policy" smokescreen. By providing political support and legitimacy to the (victorious) Mugabe regime, Mbeki's government was ensuring the longer-term security and expansion of South Africa's (capitalist) economic "investments" in Zimbabwe. [...] As long as Mugabe occupies the political driving seat, the strategic impetus behind South African policy will remain the degree to which the "crisis" facilitates the longer-term interests of an emergent black bourgeoisie in South Africa that aspires to both regional and continental ascendancy".

<sup>76</sup> Interview with official from South Africa's Treasury, January 2006.



ability to manage land issues at home without suffering any additional spillover from its policy towards Zimbabwe.

Since taking presidency in 2009, President Jacob Zuma seems to have been promoting a similar approach to land reform, domestically and internationally. Although Zuma represents the popular side of the ANC and the hopes of the many still marginalized South Africans, no more radical stance towards land reform is presently being put forward. On the contrary, when the preliminary and non-agreed upon draft of the Green Paper for the newly created Department of Rural Development and Land reform, proposing the nationalization of South Africa's agricultural land was leaked, the presidency ordered that it be withdrawn. Furthermore, while the ANC Youth League (ANCYL), and more particularly its controversial president Julius Malema, is presently pursuing a campaign for land redistribution without compensation<sup>77</sup>, President Jacob Zuma is meeting with and reassuring white farmers about land seizures and nationalization of mines. He emphasizes: "What Malema said is neither the ANC's nor the government's policy ... the farming community must not be shaken by his comments".<sup>78</sup> Land reform is currently being pursued at a very slow pace (redistributive land reform is at a standstill, tenure reform is non-existent due to the withdrawal of ClaRA), with a seemingly (but not clear) focus on the recapitalization of the transferred farms that have collapsed since 1996.

## VII. Conclusion

Despite the high profile accorded to agrarian reform by the South African government, little has been done to achieve the stated land redistribution and, more recently, land expropriation goals. The promotion of commercial farm settlement on private land through LRAD is still the main feature of South Africa's land reform programme. Even the widely publicised commercial farm that has been earmarked for expropriation is, at present, still in the hands of its original owner. It seems that these measures represent efforts to quell mounting criticism against land reform policies rather than indicating a fundamental shift in policy. On the contrary, it appears that Government is not considering equitable land distribution and land reform as main objectives, but instead utilizes these to attain various other goals. The latter is often linked to self-empowerment, with all major Government achievements related to land having been realized before a major election in order to secure the support of potential voters. As such, both the signing of the legislation allowing the expropriation of land without court approval and the organization of the Land Summit, where the "willing seller – willing buyer" principle was rejected, took place within weeks of national and local elections in 2004 and 2006. In addition, the controversial approval of the Communal Land Rights Act – once again before the presidential elections of 2004 – occurred against the backdrop of an agreement with Kwazulu-Natal's traditional authorities.

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<sup>77</sup> 'Malema: ANCYL wants more radical land policy', News24, 21/5/2011.

<sup>78</sup> Nic Borain, 'Jacob Zuma versus the ANC Youth League', WordPress, 12/5/2011.

The real fundamentals, ethics and motives behind the South African government's land reform policies still bear questioning. The strong message conveyed by the recent changes and changing discourses with regards to land reform show, however, a growing disenchantment with the 'new' South Africa and failure to address the land question could endanger future political and economic stability.



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